

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. Because the rescinded regulations are obsolete, we do not believe that this action will result in any additional costs or benefits.

#### Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 601(2), the Regulatory Flexibility Act applies only to rules for which an agency publishes a general notice of proposed rulemaking. The Regulatory Flexibility Act does not apply to this rulemaking because there is good cause to waive notice and comment under 5 U.S.C. 553.

#### Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

#### Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotope, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

#### CONTACT.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit

your search to documents published by the Department.

#### List of Subjects

##### 34 CFR Part 611

Colleges and universities, Elementary and secondary education, Grant programs-education.

##### 34 CFR Part 614

Grant programs-education, colleges and universities.

Dated: October 10, 2018.

**Diane Auer Jones,**

*Principal Deputy Under Secretary Delegated to Perform the Duties of Under Secretary and Assistant Secretary for the Office of Postsecondary Education.*

For the reasons discussed in the preamble, and under the authority at 20 U.S.C. 3474 and 20 U.S.C. 1221e-3, the Secretary amends chapter VI of title 34 of the Code of Federal Regulations as follows:

#### **PART 611—[Removed]**

- 1. Part 611 is removed.

#### **PART 614—[Removed]**

- 2. Part 614 is removed.

#### **PART 636—[Removed]**

- 3. Reserved part 636 is removed.

#### **PART 649—[Removed]**

- 4. Reserved part 649 is removed.

#### **PART 680—[Removed]**

- 5. Reserved part 680 is removed.

#### **PART 693—[Removed]**

- 6. Reserved part 693 is removed.

#### **PARTS 695–699—[REMOVED]**

- 7. Reserved parts 695–699 are removed.

[FR Doc. 2018–22413 Filed 10–15–18; 8:45 am]

BILLING CODE 4000–01–P

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. 2018–7]

#### Filing of Schedules by Rights Owners and Contact Information by Transmitting Entities Relating to Pre-1972 Sound Recordings

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

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

**SUMMARY:** The U.S. Copyright Office is issuing interim regulations pursuant to the Classics Protection and Access Act, title II of the recently enacted Orrin G. Hatch-Bob Goodlatte Music Modernization Act. These regulations pertain to the filing of schedules by rights owners listing their sound recordings fixed before February 15, 1972, and the filing of contact information by entities publicly performing these sound recordings by means of digital audio transmission. As required under the Act, the Office is also specifying how individuals may request timely notification of the filing of such schedules with the Office. These regulations are issued on an interim basis with opportunity for comment to comply with statutory requirements and to ensure that both rights owners and transmitting entities can promptly make use of these new filing mechanisms to protect their respective legal interests. The Office welcomes comment on these interim rules.

**DATES:** The effective date of the interim regulations is October 16, 2018. Written comments must be received no later than 11:59 p.m. Eastern Time on November 15, 2018.

**ADDRESSES:** For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov*. Specific instructions for submitting comments are available on the Copyright Office's website at <https://www.copyright.gov/rulemaking/pre1972-soundrecordings-schedules/>. If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

**FOR FURTHER INFORMATION CONTACT:** Regan A. Smith, General Counsel and Associate Register of Copyrights, by email at [regans@copyright.gov](mailto:regans@copyright.gov), Anna Chauvet, Assistant General Counsel, by email at [achau@copyright.gov](mailto:achau@copyright.gov), or Jason E. Sloan, Assistant General Counsel, by email at [jslo@copyright.gov](mailto:jslo@copyright.gov). Each can be contacted by telephone by calling (202) 707–8350.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 11, 2018, the president signed into law the Orrin G. Hatch-Bob Goodlatte Music Modernization Act,

H.R. 1551 (“MMA”). Title II of the MMA, the Classics Protection and Access Act, created chapter 14 of the copyright law, title 17, United States Code, which, among other things, extends remedies for copyright infringement to owners of sound recordings fixed before February 15, 1972 (“Pre-1972 Sound Recordings”). Under the provision, rights owners may be eligible to recover statutory damages and/or attorneys’ fees for the unauthorized use of their Pre-1972 Sound Recordings if certain requirements are met.

Specifically, to be eligible for these remedies, rights owners must typically file schedules listing their Pre-1972 Sound Recordings (“Pre-1972 Schedules”) with the U.S. Copyright Office (the “Office”), which are then indexed into the Office’s public records.<sup>1</sup> The remedies are only available for unauthorized uses of a recording that have occurred more than 90 days after indexing.<sup>2</sup> Pre-1972 Schedules must include the name of the rights owner, title, and featured artist for each recording listed, and “such other information, as practicable, that the Register of Copyrights prescribes by regulation.”<sup>3</sup> The filing requirement “is designed to operate in place of a formal registration requirement that normally applies to claims involving statutory damages.”<sup>4</sup> In addition, the Pre-1972 Schedules are important to the Act’s new exemption for noncommercial uses of Pre-1972 Sound Recordings that are not being commercially exploited.<sup>5</sup> Under that provision, persons seeking to use the exemption are exempt from liability for unauthorized use if they make a “good faith, reasonable search for” a given sound recording in the Office’s records of Pre-1972 Schedules before determining that the recording is not being commercially exploited.<sup>6</sup> In establishing a filing mechanism for Pre-1972 Schedules, the Office must also provide a means for individuals to request and receive timely notification

when such filings are indexed into the Office’s public record.<sup>7</sup>

In addition, rights owners must provide specific notice of unauthorized use to certain entities that were previously transmitting Pre-1972 Sound Recordings, before pursuing certain remedies against them. To be entitled to receive direct notice of unauthorized activity from a rights owner, an entity must have been publicly performing a Pre-1972 Sound Recording by means of digital audio transmission at the time of enactment of section 1401 and must file its contact information with the Copyright Office within 180 days of enactment, that is, by April 9, 2019.<sup>8</sup> Where a valid notice of contact information has been filed, the rights owner may be eligible to obtain statutory damages and/or attorneys’ fees only after sending the transmitting entity a notice stating that it is not legally authorized to use the Pre-1972 Sound Recording, and identifying the Pre-1972 Sound Recording in a schedule conforming to the requirements by the Office for filing Pre-1972 Schedules.<sup>9</sup> In addition, the unauthorized use must have occurred 90 days after the entity receives the notice.<sup>10</sup> After April 9, 2019, the Office cannot accept any new filings of contact information by transmitting entities.<sup>11</sup> For any eligible transmitting entity that does not file its contact information by April 9, 2019, rights owners are not obligated to send it a direct notice of unauthorized use prior to becoming eligible for statutory damages and/or attorneys’ fees.<sup>12</sup> Rather, as described above, rights owners would file Pre-1972 Schedules with the Copyright Office, and they would become eligible for these remedies for unauthorized uses of a recording occurring more than 90 days after indexing of the schedules.<sup>13</sup>

## II. Interim Rule

The Office promulgates the following interim rule to establish and govern the filing of Pre-1972 Schedules, the filing of contact information by entities publicly performing Pre-1972 Sound Recordings by means of digital audio transmission at the time of enactment of section 1401 (“Notice of Contact Information”), and the means by which individuals may request and receive timely notification when Pre-1972

Schedules are indexed into the Office’s public records.

### A. Pre-1972 Schedules

Under the interim rule, rights owners may file Pre-1972 Schedules with the Office using a form provided on the Office’s website. At present, the form is an Excel spreadsheet template. This format is required so that the Office can timely ingest the Pre-1972 Schedules and index them into a searchable database available to prospective users, including persons who may otherwise wish to make noncommercial uses of these works, and the general public. The database of Pre-1972 Schedules is available on the Office’s website at <https://copyright.gov/music-modernization/pre1972-soundrecordings/search-soundrecordings.html>.

For each sound recording, the Pre-1972 Schedule must include the rights owner’s name, the sound recording title, and the featured artist. Rights owners may also include additional optional information pursuant to the instructions on the form and the Office’s website. For example, the Pre-1972 Schedule may include, for each sound recording, album title information, any alternate sound recording title(s), the publication date, the label name, and the rights owner’s contact information. A rights owner may elect to include this optional information on a recording-by-recording basis. In addition, the individual submitting the Pre-1972 Schedule must certify that she has appropriate authority to submit the schedule and that all information submitted to the Office is true, accurate, and complete to the best of the individual’s knowledge, and is made in good faith. The Office may reject any Pre-1972 Schedule that fails to comply with these requirements or any additional requirements provided on the Office’s website or the form itself.

As noted above, for a rights owner to be eligible to recover statutory damages and/or attorneys’ fees for the unauthorized use of a Pre-1972 Sound Recording, the use must occur at least 90 days after a Pre-1972 Schedule that includes the recording is “indexed into the public records of the Copyright Office”<sup>14</sup> (or 90 days after a transmitting entity receives direct notice of unauthorized use, if applicable<sup>15</sup>). Under the interim rule, a Pre-1972 Schedule will be considered “indexed” once it is made publicly available through the Office’s online database of Pre-1972 Schedules.

<sup>1</sup> 17 U.S.C. 1401(f)(5)(A)(i)(I)–(III).

<sup>2</sup> *Id.* 1401(f)(5)(A)(i)(III).

<sup>3</sup> *Id.* 1401(f)(5)(A)(i)(I).

<sup>4</sup> H.R. Rep. No. 115–651, at 16 (2018); *see* S. Rep. No. 115–339, at 18 (2018); 17 U.S.C. 412 (stating that generally “no award of statutory damages or of attorney’s fees . . . Shall be made for . . . any infringement of copyright in an unpublished work commenced before the effective date of its registration” or “any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work”).

<sup>5</sup> 17 U.S.C. 1401(c)(1)(A)(i). The Copyright Office is separately issuing a notice of inquiry related to regulations the Register must promulgate regarding this exception. *See id.* 1401(c)(3), (5)(A).

<sup>6</sup> *Id.* 1401(c)(1)(A).

<sup>7</sup> *Id.* 1401(f)(5)(A)(ii)(II)–(III).

<sup>8</sup> *Id.* 1401(f)(5)(B)(i)–(ii).

<sup>9</sup> *Id.* 1401(f)(5)(B)(iii).

<sup>10</sup> *Id.* 1401(f)(5)(B)(iii)(I).

<sup>11</sup> *Id.* 1401(f)(5)(B)(ii).

<sup>12</sup> H.R. Rep. No. 115–651, at 16 (2018); *see* S. Rep. No. 115–339, at 19 (2018).

<sup>13</sup> 17 U.S.C. 1401(f)(5)(A).

<sup>14</sup> *Id.* 1401(f)(5)(A)(i)(III).

<sup>15</sup> *Id.* 1401(f)(5)(B)(iii)(I).

The interim rule also states that if ownership of a Pre-1972 Sound Recording changes after its inclusion in a Pre-1972 Schedule filed with the Office, the Office will consider the schedule to be effective as to any successor in interest. A successor in interest may, but is not required to file a new schedule. The Office invites public comments on whether it should accept transfers of rights ownership and other documents pertaining to a Pre-1972 Sound Recording (excluding Pre-1972 Schedules) for recordation, even though they are not transfers of copyright ownership or documents pertaining to a copyright under 17 U.S.C. 205.

At present, the Office has not implemented a means for rights owners to correct limited mistakes in Pre-1972 Schedules indexed into the Office's public records (e.g., accidentally misspelling the title of a sound recording or including an errant title). Presently, rights owners can file a new Pre-1972 Schedule listing the sound recording for which incorrect information was indexed, but the original and new Pre-1972 Schedules would coexist in the Office's database of Pre-1972 Schedules, and each schedule would have its own index date. This treatment is consistent with the Copyright Office's recordation functions generally, although the Office is currently evaluating comments requesting a method for correcting errors, and has implemented a limited provision permitting corrections for electronic title lists.<sup>16</sup> The Office invites public comment on whether and how to provide a mechanism for the correction of limited mistakes in Pre-1972 Schedules, or adding supplemental information about a sound recording, including the potential effect on a Schedule's index date and how to keep administrative costs low.

As required by the Music Modernization Act, the interim regulations also confirm that persons may request timely notification of when Pre-1972 Schedules are indexed into the Office's public records by following the instructions provided by the Copyright Office on its website. Presently, individuals requesting such notification can subscribe to a weekly email through

<sup>16</sup> See *Modernizing Copyright Recordation, Interim Rule*, 82 FR 52213, 52217 (Nov. 13, 2017). The Office notes, however, that permitting corrections in electronic title lists ("ETL") would differ from permitting corrections in Pre-1972 Schedules. An ETL is not considered part of the recorded document; rather an ETL is only used administratively to populate the Office's public record (as opposed to manually inputting information about the document into the Office's public record).

a service similar to the Office's NewsNet service, which will provide a link to the Office's online database of indexed Pre-1972 Schedules. The Office's searchable database defaults to listing the sound recordings with the most recent index dates first, so individuals should easily be able to identify recently indexed filings.

As with similar types of filings made with the Office, the interim rule states that the Office does not review Pre-1972 Schedules for legal sufficiency, interpret their content, or screen them for errors or discrepancies.<sup>17</sup> Rather, the Office's review is limited to whether the procedural requirements established by the Office (including payment of the proper filing fee) have been met. Rights owners are therefore cautioned to review and scrutinize schedules to assure their legal sufficiency before submitting them to the Office.

Regarding filing fees, the Copyright Act grants the Office authority to establish, adjust, and recover fees for services provided to the public.<sup>18</sup> The Office concludes that during the interim period, the appropriate fee to file a Pre-1972 Schedule will be the same as the current fee to record a notice of intention to make and distribute phonorecords under section 115 ("NOI").<sup>19</sup> The Office anticipates that the processing of Pre-1972 Schedules will be analogous to that of processing electronic NOIs, and so the fee should be the same.<sup>20</sup> There will be no fee for individuals to request and receive timely notifications of when Pre-1972 Schedules are indexed into the Office's public records.

<sup>17</sup> For example, the Office accepts statements of account under the section 111 cable license after a review for "obvious errors or omissions appearing on the face of the documents" (see 37 CFR 201.17(c)(2)), notices of intention under the section 115 compulsory license without review for "legal sufficiency" or "errors or discrepancies" (see 37 CFR 201.18(g)), and agent designations made pursuant to section 512(c)(2) without any examination.

<sup>18</sup> See 17 U.S.C. 708.

<sup>19</sup> 37 CFR 201.3(e)(1) (stating cost to record section 115 NOI is \$75, with an additional \$10 fee per group of 1 to 100 additional titles for electronic filing).

<sup>20</sup> Basing the cost of a service on the cost for a similar service is appropriate. See *Copyright Office Fees*, 83 FR 24045, 24059 (May 24, 2018) (proposing setting new fees at the same level for "analogous" services). In 2017, Booz Allen Hamilton conducted a study of the Office's most recent fee structure. When asked whether existing rates could be leveraged for new group registration options, it concluded it was appropriate if the work required was of a similar grade and compensation level. Booz Allen Hamilton, U.S. Copyright Office, *Fee Study Question and Answers* (Dec. 2017), [https://www.copyright.gov/rulemaking/feestudy2018/fee\\_study\\_q&a.pdf](https://www.copyright.gov/rulemaking/feestudy2018/fee_study_q&a.pdf).

## B. Notices of Contact Information

Under the interim rule, transmitting entities may file a Notice of Contact Information with the Office using a form and instructions specified on the Office's website. The Office is using *pay.gov* to receive these Notices after determining that it is the best available method to process these filings within the six-month window permitted under the statute.

The Notice of Contact Information must include the legal name, email address, and physical street address of the transmitting entity to which rights owners should send notifications of claimed violations of 17 U.S.C. 1401(a).<sup>21</sup> Related or affiliated transmitting entities that are separate legal entities (e.g., corporate parents and subsidiaries) are considered separate transmitting entities, and each must file its own separate Notice of Contact Information. But the Notice of Contact Information may include alternate names for the transmitting entity that the public may use to identify a specific legal entity, including names under which the transmitting entity is doing business and other commonly used names. Separate legal entities are not considered alternate names. The Notice of Contact Information shall also include the website(s) and/or application(s) through which the transmitting entity publicly performs Pre-1972 Sound Recordings by means of digital audio transmission. Finally, the Notice of Contact Information must include a certification that the transmitting entity was publicly performing Pre-1972 Sound Recordings by means of digital audio transmission as of October 11, 2018, that the individual submitting the notice has appropriate authority to submit the notice, and that all information submitted to the Office is true, accurate, and complete to the best of the individual's knowledge, and is made in good faith. The Office may reject any Notice of Contact Information that fails to comply with these requirements or any additional requirements provided on the Office's website or the form itself.

If an entity submits a Notice of Contact Information following the instructions provided by the Office, including paying the appropriate fee, the Office will make the Notice publicly available in a searchable online directory, available on the Office's website at <https://copyright.gov/music-modernization/pre1972-soundrecordings/notices-contact->

<sup>21</sup> The Office is requiring a physical street address so that rights owners may use delivery methods that allow for tracking and/or delivery confirmation.

information.html. If a transmitting entity includes alternate names in its Notice of Contact Information, users will be able to search on those names to locate the transmitting entity's Notice of Contact Information.

The Office concludes that during the interim period, the appropriate fee to file a Notice of Contact Information will be similar to the fee previously in effect for service providers to designate an agent to receive notifications of claimed copyright infringement under 17 U.S.C. 512(c).<sup>22</sup> The Office anticipates that the processing of Notices of Contact Information will be analogous to how designations of agents were processed prior to the existing Digital Millennium Copyright Act ("DMCA") designated agent directory.<sup>23</sup> Following that model, the interim rule assesses an additional cost to process alternate names submitted by the transmitting entity.<sup>24</sup>

**III. Request for Comments**

These interim regulations will go into effect immediately after publication of this document in the **Federal Register**. Comments will be due 30 days thereafter. The Copyright Office is issuing these interim regulations after

finding, for good cause, that notice and public procedure prior to their issuance would be impracticable and contrary to the public interest.<sup>25</sup> The MMA requires swift action by the Office. The Office must issue regulations regarding the filing of Notices of Contact Information within 30 days of enactment, and transmitting entities have only 180 days within which they may file these Notices.<sup>26</sup> Similarly, while the Office has 180 days to establish regulations regarding the form and submission of Pre-1972 Schedules, this filing serves as a gating factor to rights owners being eligible for statutory damages and/or attorneys' fees for unauthorized uses of Pre-1972 Sound Recordings, as well as the ability of persons to search these schedules before determining whether a given sound recording is being commercialized or is available for the noncommercial use exception.<sup>27</sup> The interim rule will also inform the Office's concurrent rulemaking regarding the criteria for a good faith search to make use of the exception for noncommercial uses of sound recordings.<sup>28</sup> The Office concludes that a prompt interim rule best serves the legal interests of all

relevant stakeholders as well as the general public. Thus, notice and comment is not required under the Administrative Procedure Act.<sup>29</sup>

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

Copyright, General provisions.

**Interim Regulations**

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 201 as follows:

**PART 201—GENERAL PROVISIONS**

■ 1. The authority citation for part 201 continues to read as follows:

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

■ 2. Amend § 201.3 as follows:

■ a. Redesignate paragraphs (c)(19) and (20) as paragraphs (c)(21) and (22), respectively.

■ b. Add new paragraphs (c)(19) and (20) to read as follows:

**§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.**

\* \* \* \* \*  
(c) \* \* \*

Registration, recordation and related services	Fees (\$)
(19) Notice of contact information for transmitting entities publicly performing pre-1972 sound recordings by means of digital audio transmission, or amendment of contact information .....	105
Alternate names (each) .....	35
(20) Schedule of pre-1972 sound recordings (single title) .....	75
Additional titles (per group of 1 to 100 titles) .....	10

■ 3. Amend § 201.4 by adding paragraphs (b)(12) and (13) to read as follows:

**§ 201.4 Recordation of transfers and other documents pertaining to copyright.**

(b) \* \* \*  
(12) Notices of contact information for transmitting entities publicly performing pre-1972 sound recordings

by means of digital audio transmission (17 U.S.C. 1401(f)(5)(B)); see § 201.36).  
(13) Schedules of pre-1972 sound recordings (17 U.S.C. 1401(f)(5)(A)); see § 201.35).

■ 4. Add § 201.35 to read as follows:

**§ 201.35 Schedules of pre-1972 sound recordings.**

(a) *General.* This section prescribes the rules under which rights owners,

pursuant to 17 U.S.C. 1401(f)(5)(A), may file schedules listing their pre-1972 sound recordings with the Copyright Office to be eligible for statutory damages and/or attorneys' fees for violations of 17 U.S.C. 1401(a).

(b) *Definitions.* For purposes of this section:

(1) Unless otherwise specified, the terms used have the meanings set forth in 17 U.S.C. 1401.

<sup>22</sup> 37 CFR 201.3(c)(17) (2016) (cost of \$105 to record designation of agent under section 512(c)(2), with additional \$35 fee per group of 1 to 10 additional names). In 2016, the Office launched a new database to designate an agent, which required less Office processing and so the Office lowered the filing fee to \$6. 37 CFR 201.3(c)(17) (2017).

<sup>23</sup> See *Old Directory of DMCA Designated Agents 1998–2016*, U.S. Copyright Office, [https://www.copyright.gov/onlinesp/list/a\\_agents.html](https://www.copyright.gov/onlinesp/list/a_agents.html).

<sup>24</sup> Because of the time sensitivity regarding the processing of Notices of Contact Information and

additional work required by the Office, the additional cost will be \$35 per alternate name listed.

<sup>25</sup> In the past, the Copyright Office has similarly issued interim rules upon the enactment of legislation before soliciting public comments. See, e.g., Freedom of Information Act Regulations, 82 FR 9505, 9506 (Feb. 7, 2017) (issuing interim rule to implement the FOIA Improvements Act because "allowing for notice and public procedure prior to the issuance of . . . interim regulations would be impracticable"); Designation of Agent to Receive

Notification of Claimed Infringement, 63 FR 59233, 59234 (Nov. 3, 1998) (issuing interim rule regarding designation of agent after enactment of the DMCA because "online service providers may wish immediately to designate agents to receive notification of claimed infringement").

<sup>26</sup> 17 U.S.C. 1401(f)(5)(B).

<sup>27</sup> *Id.* 1401(c)(1)(A), (f)(5)(A).

<sup>28</sup> *Id.* 1401(c)(1)(A).

<sup>29</sup> See 5 U.S.C. 553(b), (d)(3); *Phila. Citizen in Action v. Schweiker*, 669 F.2d 877, 884–85 (3d Cir. 1982).

(2) A *pre-1972 sound recording* is a sound recording fixed before February 15, 1972.

(c) *Form and submission.* A rights owner seeking to comply with 17 U.S.C. 1401(f)(5)(A) must submit a schedule listing the owner's pre-1972 sound recordings using an appropriate form provided by the Copyright Office on its website and following the instructions for completion and submission provided on the Office's website or the form itself. The Office may reject any submission that fails to comply with these requirements.

(d) *Content.* A schedule of pre-1972 sound recordings shall contain the following:

(1) For each sound recording listed, the right's owner name, sound recording title, and featured artist;

(2) A certification that the individual submitting the schedule of pre-1972 sound recordings has appropriate authority to submit the schedule and that all information submitted to the Office is true, accurate, and complete to the best of the individual's knowledge, information, and belief, and is made in good faith.

(3) For each sound recording listed, the rights owner may opt to include additional information as permitted and in the format specified by the Office's form or instructions, such as publication date, or alternate title information.

(e) *Transfer of rights ownership.* If ownership of a pre-1972 sound recording changes after its inclusion in a schedule filed with the Office under this section, the Office will consider the schedule to be effective as to any successor in interest. A successor in interest may, but is not required, to file a new schedule under this section.

(f) *Legal sufficiency of schedules.* The Copyright Office does not review schedules submitted under paragraph (c) of this section for legal sufficiency, interpret their content, or screen them for errors or discrepancies. The Office's review is limited to whether the procedural requirements established by the Office (including payment of the proper filing fee) have been met. Rights owners are therefore cautioned to review and scrutinize schedules to assure their legal sufficiency before submitting them to the Office.

(g) *Filing date.* The date of filing of a schedule of pre-1972 sound recordings is the date when a proper submission, including the prescribed fee, is received in the Copyright Office. The filing date may not necessarily be the same date that the schedule, for purposes of 17 U.S.C. 1401(f)(5)(A)(i)(II), is indexed into the Office's public records.

(h) *Fee.* The filing fee to submit a schedule of pre-1972 sound recordings pursuant to this section is prescribed in § 201.3(c).

(i) *Third-party notification.* A person may request timely notification of filings made under this section by following the instructions provided by the Copyright Office on its website.

■ 5. Add § 201.36 to read as follows:

**§ 201.36 Notices of contact information for transmitting entities publicly performing pre-1972 sound recordings.**

(a) *General.* This section prescribes the rules under which transmitting entities may file contact information with the Copyright Office pursuant to 17 U.S.C. 1401(f)(5)(B).

(b) *Definitions.* For purposes of this section:

(1) Unless otherwise specified, the terms used have the meanings set forth in 17 U.S.C. 1401.

(2) A *pre-1972 sound recording* is a sound recording fixed before February 15, 1972.

(3) A *transmitting entity* is an entity that, as of October 11, 2018, publicly performs pre-1972 sound recordings by means of digital audio transmission.

(c) *Form and submission.* A transmitting entity seeking to comply with 17 U.S.C. 1401(f)(5)(B) must submit contact information using an appropriate form specified by the Copyright Office on its website and following the instructions for completion and submission provided on the Office's website or the form itself. The Office may reject any submission that fails to comply with these requirements. No notice or amended notice received after April 9, 2019 will be accepted by the Office.

(d) *Content.* A notice submitted under paragraph (c) of this section shall contain the following, in addition to any other information required on the Office's form or website:

(1) The full legal name, email address, and physical street address of the transmitting entity to which rights owners should send notifications of claimed violations of 17 U.S.C. 1401(a). A post office box may not be substituted for the street address of a transmitting entity. Related or affiliated transmitting entities that are separate legal entities (*e.g.*, corporate parents and subsidiaries) are considered separate transmitting entities, and each must file its own separate notice of contact information.

(2) The website(s) and/or application(s) through which the transmitting entity publicly performs pre-1972 sound recordings by means of digital audio transmission.

(3) A certification that the transmitting entity was publicly performing pre-1972 sound recordings by means of digital audio transmission as of October 11, 2018.

(4) A certification that the individual submitting the notice has appropriate authority to submit the notice and that all information submitted to the Office is true, accurate, and complete to the best of the individual's knowledge, information, and belief, and is made in good faith.

(5) The transmitting entity may opt to include alternate names for which the transmitting entity seeks application of 17 U.S.C. 1401(f)(5)(B)(iii), such as names that the public would be likely to use to search for the transmitting entity in the Copyright Office's online directory of transmitting entities publicly performing pre-1972 sound recordings by means of digital audio transmission, including names under which the transmitting entity is doing business and other commonly used names. Separate legal entities are not considered alternate names.

(e) *Fee.* The filing fee to submit a notice of contact information pursuant to this section is prescribed in § 201.3(c).

Dated: October 11, 2018.

**Karyn A. Temple,**

*Acting Register of Copyrights and Director of the U.S. Copyright Office.*

Approved by:

**Carla D. Hayden,**

*Librarian of Congress.*

[FR Doc. 2018-22518 Filed 10-15-18; 8:45 am]

**BILLING CODE 1410-30-P**

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## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3010

[Docket No. RM2016-6; Order No. 4850]

#### Mail Preparation Changes

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Final rule.

**SUMMARY:** The Commission adopts a final rule concerning mail preparation changes. The rule as adopted removes reference to procedures relying on the existence of a substantive standard for mail preparation changes in response to the recent decision in *United States Postal Serv. v. Postal Reg. Comm'n*, 886 F.3d 1253 (D.C. Cir. 2018).

**DATES:** Effective November 15, 2018.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**