

section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

#### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

#### *Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

#### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

#### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year

on any governmental entity or the private sector.

#### **List of Subjects in 30 CFR Part 943**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 5, 2000.

**Malcolm Ahrens,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

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**BILLING CODE 4310-05-P**

## **LIBRARY OF CONGRESS**

### **Copyright Office**

#### **37 CFR Parts 201 and 256**

**[Docket No. 2000-4 CARP CRA]**

#### **Adjustment of Cable Statutory License Royalty Rates**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Copyright Office of the Library of Congress is submitting for public comment a settlement proposal for the adjustment of the royalty rates for the cable statutory license.

**DATES:** Comments and Notices of Intent to Participate are due by October 12, 2000.

**ADDRESSES:** If sent by mail, an original and five copies of comments and Notices of Intent to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, copies should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE., Washington, DC 20540.

#### **FOR FURTHER INFORMATION CONTACT:**

David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax (202) 252-3423.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

Section 111 of the Copyright Act, 17 U.S.C., creates a statutory license for cable systems that retransmit to their subscribers over-the-air broadcast signals. Royalty fees for this license are calculated as percentages of a cable system's gross receipts received from subscribers for receipt of broadcast

signals. A cable system's individual gross receipts determine the applicable percentages. These percentages, and the gross receipts limitations, are published in 37 CFR part 256 and are subject to adjustment at five-year intervals. 17 U.S.C. 801(b)(2)(A) & (D). This is a window year for such an adjustment.

A cable rate adjustment is initiated by the filing of a petition from a party with a significant interest in the rates. The Library received two such petitions: One filed on behalf of the National Basketball Association, the National Hockey League, Major League Baseball, and the National Collegiate Athletic Association; the other filed on behalf of syndicated television programmers. The Library published a **Federal Register** notice seeking comment on these petitions and directed interested parties to file a Notice of Intent to Participate in a Copyright Arbitration Royalty Panel ("CARP") proceeding. 65 FR 10564 (February 28, 2000). The Library also designated a 30-day period to negotiate a settlement as to adjustment of the rates. 37 CFR 251.63(a). The Library extended the negotiation period on two separate occasions in Orders dated May 15, 2000, and June 5, 2000. The extensions proved to be successful, as the Library has now received a joint proposal to adjust the cable royalty fees and the gross receipts limitations.

When a joint proposal is received in a rate adjustment proceeding,

the Librarian may, upon the request of the parties, submit the agreed upon rate to the public in a notice-and-comment proceeding. The Librarian may adopt the rate embodied in the proposed settlement without convening an arbitration panel, provided that no opposing comment is received by the Librarian from a party with an intent to participate in a CARP proceeding.

37 CFR 251.63(b). This **Federal Register** notice implements the requirements of § 251.63(b).

#### **II. Proposed Rates and Gross Receipts Limitations**

On June 30, 2000, the Library received a joint proposal from the National Cable Television Association; the Joint Sports Claimants; the Program Suppliers; the Canadian Claimants; the Public Television Claimants; the National Association of Broadcasters; Broadcast Music, Inc.; the American Society of Composers, Authors and Publishers; SESAC, Inc.; the Devotional Claimants; and National Public Radio, which represent all the parties that filed a Notice of Intent to Participate in this proceeding. The joint proposal puts forward adjustments to the cable license royalty rates, pursuant to 17 U.S.C. 801(b)(2)(A), and the gross receipts

limitations, pursuant to 17 U.S.C. 801(b)(2)(D). The details of the adjustments are as follows.

With respect to rates, the joint proposal raises the basic (or minimum) fee for providing broadcast stations from .893 of 1 per centum to .956 of 1 per centum of gross receipts for the privilege of further transmitting any non-network programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter; the fee for the first distant signal equivalent from .893 of 1 per centum to .956 of 1 per centum of gross receipts; the fee for the second, third, and fourth distant signal equivalent from .563 of 1 per centum to .630 of 1 per centum of gross receipts; and the fee for the fifth distant signal equivalent and each distant signal equivalent thereafter, from .265 of 1 per centum to .296 of 1 per centum of gross receipts.

With respect to the gross receipts limitations which determine the size of a cable system (small, medium or large) and the royalty fee percentages that apply to those characterizations, the joint proposal puts forward increases as well. The gross receipts threshold for determining when a cable system is a small system would be raised from \$75,800 to \$98,600. Medium-sized cable systems have two methods of calculating their royalties, depending upon which side of the limitation threshold their gross receipts result. That threshold would be raised from \$146,000 to \$189,800, with the minimum reportable gross receipts over \$189,800 being raised from \$5,600 to \$7,400. Finally, the gross receipts limitation for determining a large cable system would be raised from \$292,000 to \$379,600.

The joint proposal establishes July 1, 2000, as the effective date of these rates, meaning that they would apply to royalty calculations and payments made by cable systems beginning with the second accounting period of 2000.

### III. Proposed Rulemaking

As noted above, the Library is publishing the terms of the joint proposal as proposed amendments to parts 201 and 256 of its rules. Any party who wishes to challenge these proposed rules must submit its written comments to the Librarian of Congress no later than close of business on October 12, 2000. The content of the written challenge should describe the party's interest in this proceeding, the proposed rule or rules that the party finds objectionable, and the reasons for the challenge.

In addition, any party submitting written challenges must also submit an

accompanying Notice of Intent to Participate in a CARP proceeding to adjust the cable rates and gross receipts limitations. It should be understood that anyone who challenges the proposed rules must be willing to fully participate in a CARP proceeding and have a significant interest in the adjustment of the rates. Failure to submit a Notice of Intent to Participate will preclude an interested party from participating in this proceeding and will preclude consideration of his or her written challenge. Any interested party that does file a Notice of Intent to Participate will be notified as to when the CARP proceeding will commence and when written direct cases will be due.

### List of Subjects

#### 37 CFR Part 201

Copyright, Procedures.

#### 37 CFR Part 256

Cable television, Royalties.

For the reasons set forth in the preamble, the Library proposes to amend 37 CFR parts 201 and 256 as follows:

### PART 201—GENERAL PROVISIONS

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

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

#### **§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.**

2. In § 201.17(d)(2), remove “\$292,000” each place it appears and add “\$379,600” in its place.

3. In § 201.17(e)(12), remove “\$75,800” and add “\$98,600” in its place.

4. In § 201.17(g)(2)(ii), remove “.893” and add “.956” in its place.

### PART 256—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

5. The authority citation for part 256 continues to read:

**Authority:** 17 U.S.C. 702, 802.

#### **§ 256.2 Royalty fee for compulsory license for secondary transmission by cable systems.**

6. In § 256.2(a), introductory text, remove the phrase “the first semiannual accounting period of 1985” and add the phrase “the second semiannual accounting period of 2000” in its place.

7. In § 256.2(a)(1), remove “.893” and add “.956” in its place.

8. In § 256.2(a)(2), remove “.893” and add “.956” in its place.

9. In § 256.2(a)(3), remove “.563” and add “.630” in its place.

10. In § 256.2(a)(4), remove “.265” and add “.296” in its place.

11. In § 256.2(b), introductory text, remove the phrase “the first semiannual accounting period of 1985” and add the phrase “the second semiannual accounting period of 2000” in its place.

12. In § 256.2(b)(1), remove “\$146,000” and add “\$189,800” in its place, and remove “\$5,600” and add “\$7,400” in its place.

13. In § 256.2(b)(2), remove “\$146,000” each place it appears, and add “\$189,800” in its place, and remove “\$292,000” each place it appears and add “\$379,600” in its place.

Dated: September 7, 2000.

**David O. Carson,**

*General Counsel.*

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 204

[DFARS Case 2000-D002]

#### **Defense Federal Acquisition Regulation Supplement; Closeout of Foreign Military Sales Contract Line Items**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** DoD is withdrawing the proposed rule published at 65 FR 19865 on April 13, 2000. The rule proposed amendments to the contract closed out policy in the Defense Federal Acquisition Regulation Supplement to specify that, if a contract includes Foreign Military Sales (FMS) contract line items and non-FMS contract line items, the FMS line items should be closeout as soon as the closeout requirements for those line items are satisfied. This change was proposed as part of a DoD initiative to improve the FMS process. Public comments on the proposed rule indicated that many automated acquisition systems could not accommodate this change. Therefore, DoD is withdrawing the proposed rule and is exploring alternative methods of expediting the closeout of FMS contract line items.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melissa Rider, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-4245;