

for NAFTA-TAA under section 250 of the Trade Act of 1974.”

Signed in Washington, DC this 31st day of January 2005.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5-485 Filed 2-7-05; 8:45 am]

**BILLING CODE 4510-30-P**

## **LIBRARY OF CONGRESS**

### **Copyright Office**

[Docket No. 2004-1 CARP DTRA4]

### **Digital Performance Right in Sound Recordings and Ephemeral Recordings**

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

**ACTION:** Notice of termination of proceeding and current rates.

**SUMMARY:** The Copyright Office of the Library of Congress is announcing the termination of the proceeding to determine reasonable rates and terms for two compulsory licenses for the period beginning January 1, 2005, and ending on December 31, 2006. One license allows public performances of sound recordings by means of eligible digital audio transmissions; the other permits the making of an ephemeral phonorecord of a sound recording in furtherance of making a permitted public performance of the sound recording. The rates and terms applicable to new subscription services, eligible nonsubscription services, and services that transmit performances to business establishments that were in effect on December 31, 2004, will remain in effect during 2005.

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

Tanya M. Sandros, Associate General Counsel, or Abioye E. Oyewole, CARP Specialist. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** In 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 (“DPRA”), Public Law 104-39, which created an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly sound recordings by means of certain digital audio transmissions. Among the limitations on the performance right was the creation of a new compulsory license for nonexempt, noninteractive digital subscription transmissions. 17 U.S.C. 114(d).

The scope of this license was expanded in 1998 upon passage of the Digital Millennium Copyright Act of

1998 (“DMCA”), Public Law 105-304, in order to allow for the public performance of a sound recording when made in accordance with the terms and rates of the statutory license, 17 U.S.C. 114(d), by a preexisting satellite digital audio radio service or as part of an eligible nonsubscription transmission. In addition to expanding the section 114 license, the DMCA also created a new statutory license for the making of an “ephemeral recording” of a sound recording by certain transmitting organizations. 17 U.S.C. 112(e). The new statutory license allows entities that transmit performances of sound recordings to business establishments, pursuant to the limitations set forth in section 114(d)(1)(C)(iv), and those entities operating under the section 114 statutory license to make ephemeral recordings of a sound recording to facilitate those transmissions.

The statutory scheme for establishing reasonable terms and rates is the same for both licenses. Terms and rates may be determined by voluntary agreement among the affected parties, or if necessary, through compulsory arbitration conducted pursuant to Chapter 8 of the Copyright Act. Rates and terms are set for a two-year period through this process, except when a different period is otherwise agreed upon by the parties as part of a negotiated agreement. See 17 U.S.C. 112(e)(6) and 114(f)(2)(C)(i)(II). Accordingly, on January 6, 2004, the Copyright Office announced the voluntary negotiation period to set rates and terms for the license period beginning January 1, 2005, and ending on December 31, 2006. 69 FR 689 (January 6, 2004) and 69 FR 5196 (February 3, 2004).

However, on November 30, 2004, the Copyright Royalty and Distribution Reform Act of 2004, (the “Act”), Public Law 108-419, 118 Stat. 2341, was enacted. This Act, which becomes effective on May 31, 2005, eliminates the Copyright Arbitration Royalty Panel (“CARP”) system and replaces it with three permanent Copyright Royalty Judges. In addition, the Act terminates the proceeding initiated in January 2004 to set rates and terms under sections 114(f)(2) and 112(e) for the 2005-2006 license period.

The Act further provides that the rates and terms in effect under section 114(f)(2) or 112(e) of title 17, United States Code, on December 31, 2004, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title, and the rates and terms published in the **Federal Register** under the authority of the Small Webcaster

Settlement Act of 2002 (17 U.S.C. 114 note; Public Law 107-321) (including the amendments made by that Act) for the years 2003 through 2004, as well as any notice and recordkeeping provisions adopted pursuant thereto, shall remain in effect until the later of the first applicable date for successor terms and rates specified in section 804(b)(2) or (3)(A) of title 17, United States Code (effective May 31, 2005), or such later date as the parties may agree or the Copyright Royalty Judges may establish. In accordance with this provision, the rates and terms applicable to these services that were in effect on December 31, 2004, shall remain in effect at least for 2005.

Until such rates and terms have been established under the new procedures, beginning January 1, 2005, eligible small and noncommercial webcasters may elect to be subject to the terms and rates published in the Small Webcaster Settlement Act of 2002, Public Law 107-321, by complying with the procedures governing the election process set forth in that agreement not later than the first date on which the webcaster would be obligated to make a royalty payment for such period. See 67 FR 78510 (December 24, 2002).

Dated: February 3, 2005

**Tanya M. Sandros,**

*Associate General Counsel.*

[FR Doc. 05-2406 Filed 2-7-05; 8:45 am]

**BILLING CODE 1410-33-S**

## **NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

### **Records Schedules; Availability and Request for Comments**

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in

which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Requests for copies must be received in writing on or before March 25, 2005. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

**ADDRESSES:** You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

*Mail:* NARA (NWML), 8601 Adelphi Road, College Park, MD 20740-6001.

*E-mail:* [records.mgt@nara.gov](mailto:records.mgt@nara.gov).

*FAX:* 301-837-3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Wester, Jr., Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: 301-837-3120. E-mail: [records.mgt@nara.gov](mailto:records.mgt@nara.gov).

**SUPPLEMENTARY INFORMATION:** Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and

some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

*Schedules Pending:*

1. Department of Defense, Office of the Secretary of Defense (N1-330-05-1, 18 items, 11 temporary items). Paper copies of files accumulated by the Coalition Provisional Authority—Baghdad relating to policy and plans, operational and logistical support, and budget and finance that have been converted to an electronic format. Also included are electronic copies of documents created using electronic mail and word processing and records in all media relating to housekeeping activities, such as personnel management and internal office financial matters. Proposed for permanent retention are electronic versions of files relating to policy and plans, operational and logistical support, and budget and finance.

2. Department of Energy, Agency-wide (N1-434-05-1, 3 items, 3 temporary items). Case files consisting of paper or electronic records accumulated in connection with investigations that result in the debarment or suspension of contractors and grant recipients from contracting with or receiving assistance from the agency. Also included are electronic

copies of records created using electronic mail and word processing.

3. Department of Homeland Security, United States Secret Service (N1-87-05-2, 7 items, 7 temporary items). Case files relating to investigations of agency employees, inspection reports relating to agency components, and files relating to other fact finding investigations and special projects. Also included are electronic copies of records created using electronic mail and word processing.

4. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (N1-436-05-3, 3 items, 3 temporary items). Incident reports containing information or allegations which are of an investigative nature but do not relate to a specific investigation. Also included are electronic copies of documents created using electronic mail and word processing.

5. Department of Justice, Bureau of Prisons (N1-129-05-4, 7 items, 7 temporary items). Inputs, outputs, master files, and documentation associated with the Federal Prison Industries' Web-based customer service and sales system. Also included are electronic copies of records created using electronic mail and word processing.

6. Department of Labor, Office of Labor-Management Standards (N1-317-02-03, 33 items, 23 temporary items). General correspondence, reports and completed forms containing information received from labor organizations, financial data, employee reports, routine investigative files, and other records accumulated by the Office of Labor-Management Standards. Also included are records created using electronic mail and word processing. Records proposed for permanent retention include recordkeeping copies of program policy files, Assistant Secretary decision and order files, operations manuals, international labor reports, and significant investigative case files.

7. Department of Transportation, Bureau of Transportation Statistics (N1-570-04-4, 5 items, 4 temporary items). Records relating to organizational planning, including working papers that pertain to plans that were implemented and all documentation that relates to plans that were not. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of studies and other records that relate to implemented organization plans, including organization charts, plans, and delegations of authority. This schedule authorizes the agency to apply

the proposed disposition instructions to any recordkeeping medium.

8. Department of Transportation, Bureau of Transportation Statistics (N1-570-04-25, 3 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to interagency and other external committees, task forces, and non-rulemaking workgroups. Proposed for permanent retention are recordkeeping copies of records that relate to committees for which the agency is the committee secretariat. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

9. Department of Transportation, Bureau of Transportation Statistics (N1-570-04-26, 3 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to intra-agency and other internal committees, task forces, and non-rulemaking workgroups. Proposed for permanent retention are recordkeeping copies of records that relate to committees for which the agency is the committee secretariat. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

10. Department of Transportation, Bureau of Transportation Statistics (N1-570-04-27, 4 items, 3 temporary items). Working papers relating to management studies. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of management studies, which relate to such matters as administrative policies and procedures, staffing, and management improvements. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

11. Department of Transportation, Bureau of Transportation Statistics (N1-570-04-33, 4 items, 4 temporary items). Background files relating to special studies and projects, including such records as working papers, drafts, informal notes taken at meetings, and reference materials. Also included are electronic copies of records created using electronic mail and word processing. Recordkeeping copies of studies and final project reports are proposed for permanent retention in another schedule. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

12. Department of Transportation, Bureau of Transportation Statistics (N1-570-04-34, 3 items, 2 temporary items). Electronic copies of final deliverables

and reports created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of all mission-related final deliverables, products, and reports submitted by contractors and grantees or produced in-house. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

13. Department of the Treasury, Bureau of Engraving and Printing (N1-318-04-12, 8 items, 5 temporary items). Records of the Historical Resources Center, including administrative files and subject files that relate to managing the agency's collection of historical objects. Also included are electronic copies of records created using electronic mail or word processing. Proposed for permanent retention are master files and documentation associated with the Historical Collections Database as well as historical research materials, such as agency histories, articles, and transcripts of interviews.

14. Environmental Protection Agency, Office of Environmental Information (N1-412-05-4, 7 items, 7 temporary items). Records accumulated in response to requests from the public to correct errors in information the agency distributes or disseminates, including requests for correction, requests for reconsideration, and electronic copies of records created using word processing and electronic.

Dated: January 31, 2005.

**Michael J. Kurtz,**

*Assistant Archivist for Records Services—Washington, DC.*

[FR Doc. 05-2380 Filed 2-7-05; 8:45 am]

**BILLING CODE 7515-01-P**

## **NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

### **Meeting of the National Museum and Library Services Board**

**AGENCY:** Institute of Museum and Library Services.

**ACTION:** Notice of meeting, correction.

**SUMMARY:** This action corrects a notice published in the **Federal Register** on February 2, 2005, at 70 FR 5494. In that notice, the time and date of the Fourth Meeting of National Museum and Library Services Board was inadvertently published as 9 a.m. to 12:30 p.m. on Wednesday, February 9, 2005. The correct date of the Fourth Meeting of National Museum and Library Services Board is 9 a.m. to 12:30 p.m. on Wednesday, February 16, 2005. This action corrects that error. The

agenda and address of the meeting remain as announced on February 2, 2005, at 70 FR 5494.

**DATES:** 9 a.m. to 12:30 p.m. on Wednesday, February 16, 2005.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Lyons, Special Assistant to the Director, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Room 510, Washington, DC 20506—(202) 606-4649.

**SUPPLEMENTARY INFORMATION:** In the Institute of Museum and Library Services' notice of meeting published on February 2, 2005, at 70 FR 5494, the date of the Fourth Meeting of National Museum and Library Services Board has been corrected as set forth in the Time/Date section of this notice. No other information has been changed. Notice of this meeting is required under the Sunshine in Government Act.

Dated: February 2, 2005.

**Teresa LaHaie,**

*Administrative Officer, National Foundation on the Arts and the Humanities, Institute of Museum and Library Services.*

[FR Doc. 05-2324 Filed 2-7-05; 8:45 am]

**BILLING CODE 7036-01-M**

## **NATIONAL INDIAN GAMING COMMISSION**

### **Fee Rates**

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted preliminary annual fee rates of 0.00% for tier 1 and 0.059% (.00059) for tier 2 for calendar year 2005. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation under 25 CFR part 518, the preliminary fee rate on class II revenues for calendar year 2005 shall be one-half of the annual fee rate, which is 0.0295% (.000295).

**FOR FURTHER INFORMATION CONTACT:** Bobby Gordon, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005; telephone (202) 632-7003; fax 202/632-7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The Indian Gaming Regulation Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.