

violation of a requirement of a regulation or rule under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed \$152,998 for each violation.

\* \* \* \* \*

## PART 851—WORKER SAFETY AND HEALTH PROGRAM

- 21. The authority citation for part 851 continues to read as follows:

**Authority:** 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.*; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 28 U.S.C. 2461 note.

- 22. Section 851.5 is amended by revising the first sentence of paragraph (a) to read as follows:

### § 851.5 Enforcement.

(a) A contractor that is indemnified under section 170d. of the AEA (or any subcontractor or supplier thereto) and that violates (or whose employee violates) any requirement of this part shall be subject to a civil penalty of up to \$99,361 for each such violation.

\* \* \* \* \*

- 23. Appendix B to part 851 is amended by:

#### ■ a. In section VI:

■ i. Adding a period after the phrase “such place of employment” in paragraph (b)(1); and

■ ii. Revising the last sentences of paragraphs (b)(1) and (2); and

■ b. Revising paragraph 1.(e)(1) in section IX.

The revisions read as follows:

### Appendix B to Part 851—General Statement of Enforcement Policy

\* \* \* \* \*

#### VI. Severity of Violations

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \* A Severity Level I violation would be subject to a base civil penalty of up to 100% of the maximum base civil penalty of \$99,361.

(2) \* \* \* A Severity Level II violation would be subject to a base civil penalty up to 50% of the maximum base civil penalty (\$49,680).

\* \* \* \* \*

#### IX. Enforcement Actions

\* \* \* \* \*

##### 1. Notice of Violation

\* \* \* \* \*

(e) \* \* \*

(1) DOE may assess civil penalties of up to \$99,361 per violation per day on contractors (and their subcontractors and suppliers) that

are indemnified by the Price-Anderson Act, 42 U.S.C. 2210(d). *See* 10 CFR 851.5(a).

\* \* \* \* \*

## PART 1013—PROGRAM FRAUD CIVIL REMEDIES AND PROCEDURES

- 24. The authority citation for part 1013 continues to read as follows:

**Authority:** 31 U.S.C. 3801–3812; 28 U.S.C. 2461 note.

- 25. Section 1013.3 is amended by revising paragraphs (a)(1)(iv) and (b)(1)(ii) to read as follows:

### § 1013.3 Basis for civil penalties and assessments.

(a) \* \* \*

(1) \* \* \*

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$11,665 for each such claim.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$11,665 for each such statement.

\* \* \* \* \*

## PART 1017—IDENTIFICATION AND PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

- 26. The authority citation for part 1017 continues to read as follows:

**Authority:** 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 42 U.S.C. 2168; 28 U.S.C. 2461 note.

- 27. Section 1017.29 is amended by revising paragraph (c) to read as follows:

### § 1017.29 Civil penalty.

\* \* \* \* \*

(c) *Amount of penalty.* The Director may propose imposition of a civil penalty for violation of a requirement of a regulation under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed \$275,529 for each violation.

\* \* \* \* \*

## PART 1050—FOREIGN GIFTS AND DECORATIONS

- 28. The authority citation for part 1050 continues to read as follows:

**Authority:** The Constitution of the United States, Article I, Section 9; 5 U.S.C. 7342; 22 U.S.C. 2694; 42 U.S.C. 7254 and 7262; 28 U.S.C. 2461 note.

- 29. Section 1050.303 is amended by revising the last sentence in paragraph (d) to read as follows:

### § 1050.303 Enforcement.

\* \* \* \* \*

(d) \* \* \* The court in which such action is brought may assess a civil penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$20,888.

[FR Doc. 2019–27802 Filed 1–7–20; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 390

[Docket No. 19–CRB–0009 AA]

### Determination and Allocation of Initial Administrative Assessment To Fund Mechanical Licensing Collective (Initial AA)

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Royalty Judges publish final regulations that set the amount and allocation of the Initial Administrative Assessment to fund the Mechanical Licensing Collective.

**DATES:** *Effective Date:* January 8, 2020.

**ADDRESSES:** *Docket:* For access to the docket to read background documents go to eCRB, the Copyright Royalty Board’s electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 19–CRB–0009 AA.

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

**SUPPLEMENTARY INFORMATION:** On July 8, 2019, the Copyright Royalty Board initiated the proceeding titled *Determination and Allocation of Initial Administrative Assessment to Fund Mechanical Licensing Collective*, by causing to be published a notice in the **Federal Register** at 84 FR 32475, pursuant to the Orrin G. Hatch-Bob Goodlatte Music Modernization Act (MMA), Public Law 115–264, 132 Stat. 3676 (Oct. 11, 2018), 17 U.S.C. 115(d)(7)(D)(vii) and 801(b)(8) (2018). The purpose of this proceeding was to determine the initial administrative

assessment that digital music providers and any significant nonblanket licensees must pay to fund the collective total costs of the Mechanical Licensing Collective.

On November 14, 2019, the Mechanical Licensing Collective and the Digital Licensee Coordinator filed with the Copyright Royalty Judges (“Judges”) a Joint Notice of Settlement and Motion to Suspend Case Schedule informing the Judges that they had reached a full settlement of all terms in the proceeding and describing in detail those terms. The Judges granted that motion and directed the participants to file proposed regulations.

Section 115(d)(7)(D)(v) of the Copyright Act authorizes the Judges to approve and adopt a negotiated agreement that has been agreed to by the Mechanical Licensing Collective and the Digital Licensee Coordinator in lieu of a determination of the administrative assessment. An administrative assessment adopted under sec. 115(d)(7)(D)(v) “shall apply to all digital music providers and significant nonblanket licensees engaged in covered activities during the period the administrative assessment is in effect.” *Id.*

However, the Judges, in their discretion, may reject a proposed settlement for good cause shown. Section 355.4(c)(4) of 37 CFR establishes a process for non-settling participants to comment on a proposed settlement and for the settling participants to respond. Because there were no non-settling participants in the instant proceeding, the proposed settlement was unopposed.<sup>1</sup> Moreover, the participants, at the Judges’ direction, explained to the Judges’ satisfaction how the Proposed Regulations comply with the provisions of the Copyright Act. *See generally* Motion. The Judges, finding no good cause to reject the proposed settlement agreement, hereby adopt it and publish

<sup>1</sup> The Judges have been advised by their staff that some members of the public sent emails to the Copyright Royalty Board seeking to comment on the proposed settlement agreement. Neither the Copyright Act, nor the regulations adopted thereunder, provide for submission or consideration of comments on a proposed settlement by non-participants in an administrative assessment proceeding. Consequently, as a matter of law, the Judges could not, and did not, consider these *ex parte* communications in deciding whether to approve the proposed settlement. Additionally, the Judges’ non-consideration of these *ex parte* communications does not: (i) imply any opinion by the Judges as to the substantive merits of any statements contained in such communications; or (ii) reflect any inability of the Judges to question, *sua sponte*, whether good cause exists to adopt a settlement and to then utilize all express or reasonably implied statutory authority granted to them to make a determination as to the existence, *vel non*, of good cause.

these final regulations implementing the settlement.

#### List of Subjects in 37 CFR Part 390

Copyright, Licensing and registration, Music, Phonorecords, Recordings, Royalties.

For the reasons set forth in the preamble, the Copyright Royalty Judges add part 390 to chapter III of title 37 of the Code of Federal Regulations as follows:

#### PART 390—AMOUNTS AND TERMS FOR ADMINISTRATIVE ASSESSMENTS TO FUND MECHANICAL LICENSING COLLECTIVE

Sec.

- 390.1 Definitions.
- 390.2 Amount of assessments.
- 390.3 Annual minimum fees.
- 390.4 Annual Assessment allocation and payment.

**Authority:** 17 U.S.C. 115, 801(b).

#### PART 390—AMOUNTS OF AND TERMS FOR ADMINISTRATIVE ASSESSMENTS TO FUND MECHANICAL LICENSING COLLECTIVE

##### § 390.1 Definitions.

*Administrative assessment* has the meaning set forth in 17 U.S.C. 115(e)(3).

*Aggregate Sound Recordings Count* means the sum of the Unique Sound Recordings Counts of each and every Licensee, calculated over the respective Quarterly Allocation calculation period.

*All Licensee Assessment Pool* means an amount equaling 50% of each Annual Assessment and Quarterly Allocation.

*Annual Assessment* means the administrative assessment for each calendar year beginning with the calendar year 2021.

*Annual Calculation Period* means the calculation period for annual minimum fees, as set forth in § 390.3(b).

*Annual minimum fee* means the minimum amount each Licensee shall pay for each Annual Assessment period, as set forth in § 390.3.

*Certified Minimum Fee Disclosure* means a Licensee’s certified statement setting forth its Unique Sound Recordings Count for the respective calculation period.

*Digital licensee coordinator* or *DLC* has the meaning set forth in 17 U.S.C. 115(e)(9).

*ECI* means the Employment Cost Index for Total Compensation (not seasonally adjusted), all civilian workers, as published on the website of the United States Department of Labor, Bureau of Labor Statistics, for the most

recent 12-month period for which data are available on the date that is 60 days prior to the start of the calendar year.

*License availability date* has the meaning set forth in 17 U.S.C. 115(e)(15).

*Licensee* means either:

(1) A digital music provider that is engaged, in all or in part, in covered activities pursuant to a blanket license; or

(2) A significant nonblanket licensee, as those terms are defined under 17 U.S.C. 115(e).

*Mechanical licensing collective* or *MLC* has the meaning set forth in 17 U.S.C. 115(e)(18).

*Notice of license* has the meaning set forth in 17 U.S.C. 115(e)(22).

*Notice of nonblanket activity* has the meaning set forth in 17 U.S.C. 115(e)(23).

*Quarterly Allocation* means each of four equal parts of each Annual Assessment, to be paid on a calendar quarterly basis.

*Startup Assessment* means the one-time administrative assessment for the startup phase of the Mechanical licensing collective.

*Threshold Licensee* means a Licensee that reports at least 7.5% of the Aggregate Sound Recordings Count of all Licensees.

*Threshold Licensee Assessment Pool* means an amount equaling 50% of each Annual Assessment and Quarterly Allocation.

*Unique Sound Recordings Count* means, for each Licensee, the number of unique and royalty-bearing sound recordings used per month by such Licensee in Section 115 covered activities, such as would be reflected in the information required to be reported under Section 115(d), calculated as a monthly average over the respective calculation period. For example, a Licensee’s Unique Sound Recordings Count for a Quarterly Allocation calculation period will be calculated by adding together the counts of unique and royalty-bearing sound recordings reported by such Licensee to the MLC during each month of that quarter, and dividing that sum by three. A Licensee’s Unique Sound Recordings Count for an Annual Calculation Period will be calculated by adding together the counts of unique and royalty-bearing sound recordings reported by such Licensee to the MLC during each month of that twelve-month period, and dividing that sum by twelve. Within each month’s usage reports from a particular Licensee, a sound recording reported multiple times with the same metadata would be counted as a single sound recording, and a sound recording reported multiple

times each with different metadata would be counted multiple times, once for each reporting with new or different metadata.

### § 390.2 Amount of assessments.

(a) *Startup Assessment.* The Startup Assessment shall be in the amount of \$33,500,000.

(b) *2021 Annual Assessment.* The Annual Assessment for the calendar year 2021 shall be in the amount of \$28,500,000.

(c) *Other Annual Assessments.* (1) For the calendar year 2022 and all subsequent years, the amount of the Annual Assessment will be automatically adjusted by increasing the amount of the Annual Assessment of the preceding calendar year by the lesser of:

(i) 3 percent; and

(ii) The percentage change in the ECI.

(2) The MLC shall publish notice on its website of each year's automatic adjustment to the Annual Assessment. The Annual Assessment shall continue from year to year unless and until the Copyright Royalty Judges cause to be published an adjusted administrative assessment pursuant to 17 U.S.C. 115(d)(7)(D)(iv) or (v).

### § 390.3 Annual minimum fees.

(a) *Amount.* All Licensees shall pay the following annual minimum fee for each Annual Assessment period:

(1) For Licensees that have a Unique Sound Recordings Count of less than 5,000 during the relevant Annual Calculation Period, the annual minimum fee shall be \$5,000.

(2) For Licensees that have a Unique Sound Recordings Count of 5,000 or more during the relevant Annual Calculation Period, the annual minimum fee shall be \$60,000.

(b) *Annual Calculation Period.* The calculation period for annual minimum fees shall be the 12-month period that ends on the September 30th immediately preceding the start of the assessment period (e.g., the annual minimum fee calculation period for the 2021 Annual Assessment shall be October 1, 2019 to September 30, 2020).

(c) *Calculation by Licensee certification (2021 and 2022)*—(1) *2021.* Each Licensee in operation on or before the license availability date shall submit to the MLC, accompanying its notice of license under Section 115(d)(2)(A) or its notice of nonblanket activity under Section 115(d)(6)(A) and no later than February 15, 2021, its Certified Minimum Fee Disclosure for the 2021 annual minimum fee (i.e., for the period from October 1, 2019 to September 30, 2020). Each Licensee shall submit the appropriate minimum fee (i.e., \$5,000 or

\$60,000) for the 2021 Assessment simultaneously with its Certified Minimum Fee Disclosure.

(2) *2022.* Each Licensee shall submit to the MLC by November 1, 2021, a Certified Minimum Fee Disclosure for the 2022 Assessment, and shall pay the appropriate annual minimum fee by January 15, 2022.

(d) *Calculation by the MLC (2023 and subsequent years).* (1) Beginning with the 2023 Assessment and continuing in subsequent years, the MLC will calculate each Licensee's annual minimum fee based on usage reporting received from Licensees pursuant to Section 115(d)(4). The MLC shall send invoices for the appropriate annual minimum fee to each Licensee.

Licensees shall pay the annual minimum fee invoices from the MLC by the later of:

(i) 30 days from receipt of the invoice from the MLC; or

(ii) January 15th of the respective Annual Assessment year.

(2) Each Licensee in operation during any portion of an annual minimum fee calculation period shall pay the full amount of the respective annual minimum fee.

### § 390.4 Annual Assessment allocation and payment.

(a) *Allocation formula.* Each Annual Assessment shall be divided into four equal Quarterly Allocations, each of which shall be allocated and paid on a calendar quarterly basis. Each Quarterly Allocation shall be divided into two equal parts, allocated among Licensees according to the following formula:

(1) *All Licensee Assessment Pool.* The All Licensee Assessment Pool shall be allocated on a pro rata basis across all Licensees based on each Licensee's share of the Aggregate Sound Recordings Count.

(2) *Threshold Licensee Assessment Pool.* The Threshold Licensee Assessment Pool shall be allocated on a pro rata basis across Threshold Licensees based on each Threshold Licensee's share of the aggregate Unique Sound Recordings Counts of all Threshold Licensees.

(b) *Calculation periods and timing.* The calculation period for each Quarterly Allocation shall be the three-month period that ends three months prior to the start of the respective quarter, except that the calculation period for the Quarterly Allocation for the first and second quarters of 2021 shall be the same as for the annual minimum fee for the 2021 Annual Assessment, and shall be calculated based upon the information provided in the Certified Minimum Fee Disclosures,

as required by this part. The MLC shall make all calculations for each respective period based upon the reporting for such period received from Licensees as of the time of calculation by the MLC, which calculation time shall not be earlier than the legal deadline for submission of reporting by Licensees for the respective period. In the event that a Licensee has not provided timely reporting for the respective calculation period at the time the MLC calculates a Quarterly Allocation, the MLC may instead, in its discretion, use the most recent reporting from that Licensee to determine that Licensee's Unique Sound Recordings Count, for the purposes of calculating the Quarterly Allocation.

(c) *Invoicing and payment of allocation*—(1) *Deadline for payment.* (i) Invoices from the MLC for Quarterly Allocation shares shall be payable pursuant to the MLC invoice, but no earlier than the later of:

(A) 30 days from receipt of the invoice from the MLC; or

(B) The first day of the next calendar quarter.

(ii) Invoices from the MLC to Licensees shall be deemed received on the business day after electronic transmission.

(2) *Format of invoices.* (i) The quarterly invoices issued by the MLC shall include at least the following information, where applicable:

(A) Invoice issuance date;

(B) Invoice payment due date;

(C) Amount owed, by share of All Licensee Assessment Pool and Threshold Licensee Assessment Pool;

(D) Allocation of Startup Assessment;

(E) Offset of minimum fee payment against quarterly assessment; and

(F) Amount of credit for un-recouped minimum fee.

(ii) Invoices issued as a result of an allocation adjustment shall include all of the information set forth in paragraphs (c)(2)(i)(A) through (F) of this section that may be relevant, as well as an explanation of the change from the prior invoices that are affected, and the reason(s) for the adjustment.

(d) *Late reporting.* The MLC shall promptly notify the DLC of any known Licensees who have not timely submitted reports of usage as required each month pursuant to Section 115(d) and 37 CFR part 210.

(e) *Recalculation of Allocated Assessment invoices.* The MLC may, in its discretion, recalculate allocations and adjust prior invoices, with the written consent of the DLC, within twelve months after the initial issuance of such invoices, in circumstances including, but not limited to, where new usage reporting is received or where a

correction would alter one or more of any Licensee's Quarterly Allocation shares by at least 10%.

(f) *Recoupment of minimum fee.* Each Licensee's annual minimum fee will be offset against its Quarterly Allocation shares, and additional payment will not be due from a Licensee unless and until its total Quarterly Allocation shares exceed its annual minimum fee payment. To the extent that a Licensee's annual minimum fee exceeds that Licensee's Quarterly Allocation shares for a given Assessment period, the excess amounts will be pooled and credited pro rata to all Licensees based on the Quarterly Allocation shares for the first quarter of the following year.

(g) *Reports to DLC.* The MLC shall report to the DLC no later than 75 days after the end of every quarter the Aggregate Sound Recordings Count for that quarter.

(h) *Startup Assessment allocation and payment.* The Startup Assessment shall be allocated and paid in the same manner and on the same dates as the 2021 Annual Assessment, including as to each of the applicable provisions above, and shall be separately itemized in invoices from the MLC to Licensees.

Dated: December 18, 2019.

**Jesse M. Feder,**

*Chief Copyright Royalty Judge.*

Approved by:

**Carla D. Hayden,**

*Librarian of Congress.*

[FR Doc. 2019-28233 Filed 1-7-20; 8:45 am]

**BILLING CODE 1410-72-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 58**

[EPA-HQ-OAR-2019-0137; FRL-10003-87-OAR]

**RIN 2060-AU38**

**Extension of Start Date for Revised Photochemical Assessment Monitoring Stations**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is delaying the start date for the revised Photochemical Assessment Monitoring Stations (PAMS) monitoring site network established in EPA regulations. This final action extends the start date from June 1, 2019, to June 1, 2021. The revision gives states two additional years to acquire the necessary equipment and expertise needed to successfully make the required PAMS measurements by the start of the 2021 PAMS season.

**DATES:** This final rule is effective on February 7, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2019-0137. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov>, or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, contact Kevin Cavender, Air Quality Analysis Division (C304-06), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2364; fax number: (919) 541-1903; and email address: [cavender.kevin@epa.gov](mailto:cavender.kevin@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. General Information**

*A. Does this action apply to me?*

Table 1 of this preamble identifies the entities potentially affected by this action. This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

**TABLE 1—SOURCE CATEGORIES AFFECTED BY THIS ACTION**

Source category	NAICS <sup>1</sup> code	Examples of affected sources
State, local, and tribal government agencies .....	924119	Administration of air and water resource and solid waste management programs.

<sup>1</sup> North American Industry Classification System.