

the public interest to continue this proceeding and it hereby gives notice of its termination.

By direction of the Commission.

Donald S. Clark,  
Secretary.

[FR Doc. 2010-1041 Filed 1-21-10; 8:45 am]

BILLING CODE 6750-01-S

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-101896-09]

RIN 1545-BI66

#### Basis Reporting by Securities Brokers and Basis Determination for Stock; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to a notice of proposed rulemaking.

**SUMMARY:** This document contains corrections to a notice of proposed rulemaking that was published in the *Federal Register* on Thursday, December 17, 2009, relating to reporting sales of securities by brokers and determining the basis of securities.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations under section 1012, Edward C. Schwartz, (202) 622-4960; Concerning the proposed regulations under sections 3406, 6045, 6045A, 6045B, 6721, and 6722, Stephen Schaeffer, (202) 622-4910 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

A notice of proposed rulemaking that is the subject of this document is under sections 408, 1012, 6039, 6042, 6044, 6045, 6045A, 6045B and 6049 of the Internal Revenue Code.

##### Need for Correction

As published, a notice of proposed rulemaking (REG-101896-09), published Thursday, December 17, 2009 (74 FR 67010), contains errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of a notice of proposed rulemaking (REG-101896-09), which was the subject of FR Doc. E9-29855, is corrected as follows:

1. On page 67013, column 3, in the preamble, under paragraph heading “a.

Form and Manner of New Broker Reporting Requirements”, last line of the first paragraph of the column, the language “*pub/irs-dft/f1099k-dft.pdf*.” is corrected to read “*pub/irs-dft/f1099b-dft.pdf*.”.

#### § 1.6045-1 [Corrected]

2. On page 67035, column 2, paragraph (f)(2)(i), lines 6 thru 8, the language “shall show on Form 1099, “U.S. Information Return for Calendar Year 1971,” or any successor form the name,” is corrected to read “shall show on Form 1099-B, “Proceeds from Broker and Barter Exchange Transactions,” or any successor form the name”.

Guy R. Traynor,

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2010-1122 Filed 1-21-10; 8:45 am]

BILLING CODE 4830-01-P

## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 383

[Docket No. 2009-2 CRB New Subscription II]

#### Digital Performance Right in Sound Recordings and Ephemeral Recordings for a New Subscription Service

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

**ACTION:** Proposed rule.

**SUMMARY:** The Copyright Royalty Judges are publishing for comment proposed regulations that set the rates and terms for the use of sound recordings in transmissions made by new subscription services and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2011, and ending on December 31, 2015.

**DATES:** Comments and objections, if any, are due by no later than February 22, 2010.

**ADDRESSES:** Comments and objections may be sent electronically to *crb@loc.gov*. In the alternative, send an original, five copies and an electronic copy on a CD either by mail or hand delivery. Please do not use multiple means of transmission. Comments and objections may not be delivered by an overnight delivery service other than U.S. Postal Service Express Mail. If by mail (including overnight delivery), comments and objections must be

addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977. If hand delivered by a private party, comments and objections must be brought to the Copyright Office Public Information Office, Library of Congress, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, between 8:30 a.m. and 5 p.m. If delivered by commercial courier, comments and objections must be delivered between 8:30 a.m. and 4 p.m. to the Congressional Courier Acceptance Site located at 2nd and D Street, NE., Washington, DC, and the envelope must be addressed as follows: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, Room LM-403, 101 Independence Avenue, SE., Washington, DC 20559-6000.

**FOR FURTHER INFORMATION CONTACT:** Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707-7658 or by e-mail at *crb@loc.gov*.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 114(f)(2)(C) of the Copyright Act, title 17 of the United States Code, allows a new type of eligible nonsubscription service or a new subscription service on which sound recordings are performed that is or is about to become operational to file a petition with the Copyright Royalty Judges (“Judges”) for the purpose of determining reasonable terms and rates. 17 U.S.C. 114(f)(2)(C). Section 112(e) allows the making of ephemeral reproductions for the purpose of facilitating certain digital audio transmissions, including those made by new subscription services. 17 U.S.C. 112(e). Upon receipt of a petition filed pursuant to section 114(f)(2)(C), the Judges are required to commence a proceeding to determine said reasonable terms and rates. 17 U.S.C. 804(b)(3)(C)(ii). The Judges have conducted one proceeding pursuant to these provisions. *See* 70 FR 72471, 72472 (December 5, 2005) (after receipt of petition, commencing proceeding to determine rates and terms for a new type of subscription service that “performs sound recordings on digital audio channels programmed by the licensee for transmission by a satellite television distribution service to its residential customers, where the audio channels are bundled with television channels as part of a ‘basic’ package of service and not for a separate fee”). The parties to that proceeding ultimately reached an agreement on the rates and

terms for the new subscription service at issue; and the Judges, after public comment, adopted the settlement as final regulations.<sup>1</sup> See 72 FR 72253 (December 20, 2007). The current rates expire on December 31, 2010.

Pursuant to section 803(b)(1)(A)(i)(III) of the Copyright Act, the Judges, published in the **Federal Register** a notice commencing the rate determination proceeding for the license period 2011–2015 for the new subscription service defined in § 383.2(h) and requesting interested parties to submit their petitions to participate. See 74 FR 319 (January 5, 2009). Petitions to Participate in this proceeding were received from SoundExchange, Inc.; Royalty Logic, LLC (“RLI”); and Sirius XM Radio Inc. (“Sirius XM”).

The Judges set the timetable for the three-month negotiation period, see 17 U.S.C. 803(b)(3), and directed the participants to submit their written direct statements no later than September 29, 2009. On September 22, 2009, the Judges received a joint motion from all parties to stay the filing of the written direct statements in light of the parties reaching a settlement which they intended to submit to the Judges for adoption. On September 23, 2009, the Judges issued an order extending the deadline for the filing of written direct statements to October 29, 2009. See Order on Extending Deadline to File Written Direct Statements, Docket No. 2009–2 CRB New Subscription II (September 23, 2009). SoundExchange and Sirius XM submitted the settlement to the Judges on October 21, 2009.<sup>2</sup>

Section 801(b)(7)(A) allows for the adoption of rates and terms negotiated by “some or all of the participants in a proceeding at any time during the proceeding” provided they are submitted to the Copyright Royalty Judges for approval. This section provides that in such event:

- The Copyright Royalty Judges shall provide to those that would be bound by the terms, rates, or other determination set by any agreement in a proceeding to determine royalty rates an opportunity to comment on the agreement and shall provide to participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, or other determination set by the agreement an opportunity to comment on the

agreement and object to its adoption as a basis for statutory terms and rates; and

- The Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement, if any participant described in clause (i) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.

17 U.S.C. 801(b)(7)(A). Rates and terms adopted pursuant to this provision are binding on all copyright owners of sound recordings and new subscription services performing the sound recordings on digital audio channels programmed by the licensee for transmission by a cable or satellite television distribution service to its residential customers where the audio channels are bundled with television channels as part of a “basic” package of service and not for a separate fee. See 37 CFR 383.2(h).

As noted above, the public may comment and object to any or all of the proposed regulations contained in this notice of proposed rulemaking. Such comments and objections must be submitted no later than February 22, 2010.

#### List of Subjects in 37 CFR Part 383

Copyright, Digital audio transmissions, Performance right, Sound recordings.

#### Proposed Regulation

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to amend 37 CFR part 383 as follows:

#### PART 383—RATES AND TERMS FOR SUBSCRIPTION TRANSMISSIONS AND THE REPRODUCTION OF EPHEMERAL RECORDINGS BY NEW SUBSCRIPTION SERVICES

1. The authority citation for part 383 continues to read as follows:

**Authority:** 17 U.S.C. 112(e), 114, and 801(b)(1).

##### § 383.1 [Amended]

- Amend § 383.1 as follows:
  - In paragraph (a), by removing “2010” and adding in its place “2015”; and
  - In paragraph (b), by removing “112” and adding in its place “112(e)”.

##### § 383.2 [Amended]

- Amend § 383.2 as follows:
  - In paragraph (d), by removing “2010” and adding in its place “2015”; and
  - In paragraph (e), by removing “112” and adding in its place “112(e)”.

4. Amend § 383.3 as follows:

- In paragraph (a) introductory text, by removing “112” and adding in its place “112(e)” and by adding “during the License Period,” after “such transmissions,”;
- In paragraph (a)(1)(ii)(E), by removing “and”;
- By adding new paragraphs (a)(1)(ii)(F) through (J);
- In paragraph (a)(2)(ii)(E), by removing “and”;
- By adding new paragraphs (a)(2)(ii)(F) through (J);
- In paragraph (b), by removing “112” and adding in its place “112(e)”;
- By adding a new paragraph (c).  
The additions to § 383.3 read as follows:

#### § 383.3 Royalty fees for public performances of sound recordings and the making of ephemeral recordings.

- (a) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*
- (F) 2011: \$0.0155
- (G) 2012: \$0.0159
- (H) 2013: \$0.0164
- (I) 2014: \$0.0169
- (J) 2015: \$0.0174 and
- (2) \* \* \*
- (ii) \* \* \*
- (F) 2011: \$0.0258
- (G) 2012: \$0.0265
- (H) 2013: \$0.0273
- (I) 2014: \$0.0281
- (J) 2015: \$0.0290

(c) *Ephemeral recordings.* The royalty payable under 17 U.S.C. 112(e) for the making of phonorecords used by the Licensee solely to facilitate transmissions during the License Period for which it pays royalties as and when provided in this part shall be included within, and constitute 5% of, such royalty payments.

5. Revise § 383.4 to read as follows:

#### § 383.4 Terms for making payment of royalty fees.

(a) *Terms in general.* Subject to the provisions of this section, terms governing timing and due dates of royalty payments to the Collective, late fees, statements of account, audit and verification of royalty payments and distributions, cost of audit and verification, record retention requirements, treatment of Licensees’ confidential information, distribution of royalties by the Collective, unclaimed funds, designation of the Collective, and any definitions for applicable terms not defined herein and not otherwise inapplicable shall be those adopted by the Copyright Royalty Judges for subscription transmissions and the

<sup>1</sup> The new subscription service is defined at 37 CFR 383.2(h).

<sup>2</sup> SoundExchange and Sirius XM also moved that the Judges stay further proceedings until the settlement process under 17 U.S.C. 801(b)(7)(A) has been completed. They noted that RLI, the only other participant to the proceeding, joins in the request for stay. The Judges granted the motion. See Order on Joint Motion to Stay, Docket No. 2009–2 CRB New Subscription II (October 28, 2009).

reproduction of ephemeral recordings by preexisting satellite digital audio radio services in 37 CFR part 382, subpart B of this chapter, for the license period 2007–2012. For purposes of this section, the term “Collective” refers to the collection and distribution organization that is designated by the Copyright Royalty Judges. For the License Period through 2015, the sole Collective is SoundExchange, Inc.

(b) *Reporting of performances.* Without prejudice to any applicable notice and recordkeeping provisions, statements of account shall not require reports of performances.

(c) *Applicable regulations.* To the extent not inconsistent with this part, all applicable regulations, including part 370 of this chapter, shall apply to activities subject to this part.

Dated: January 15, 2010.

**James Scott Sledge,**

*Chief U.S. Copyright Royalty Judge.*

[FR Doc. 2010–1172 Filed 1–21–10; 8:45 am]

**BILLING CODE 1410–72–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2005–OH–0003; FRL–9105–7]

### Conditional Approval and Promulgation of State Implementation Plans; Ohio; Carbon Monoxide and Volatile Organic Compounds

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a variety of actions regarding revisions to Ohio Administrative Code (OAC) 3745–21 (Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and related Materials Standards). EPA is proposing the following actions: To approve into the State Implementation Plan (SIP) certain regulation revisions within OAC 3745–21 which have been adopted by the State; to disapprove a regulation revision pertaining to high performance architectural coatings; to conditionally approve a revision of paragraph (BBB)(1) of OAC 3745–21–09, if the State gives EPA a letter that commits to address noted deficiencies no later than one year from the expected date of EPA’s conditional approval; to take no action on certain regulation revisions, and to provide notice that EPA and Ohio have created a path forward for facilities operating under previously issued alternate VOC limit

and emission control exemptions for miscellaneous metal coating operations under OAC 3745–21–09(U)(2)(f). This action addresses revisions to OAC 3745–21 in a set of submittals dated October 9, 2000, February 6, 2000, and August 3, 2001; and also addresses revisions to OAC 3745–21, submitted on June 24, 2003, as part of Ohio’s five-year rule review process.

**DATES:** Comments must be received on or before February 22, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2005–OH–003, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax:* (312) 886–5824.

4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2005–OH–003. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you

submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Anthony Maietta, Life Scientist, at (312) 353–8777 before visiting the Region 5 office.

#### FOR FURTHER INFORMATION CONTACT:

Anthony J. Maietta, Life Scientist, U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), Air Programs Branch, Criteria Pollutant Section, 77 West Jackson Boulevard, Chicago, Illinois 60604. (312) 353–8777; [maietta.anthony@epa.gov](mailto:maietta.anthony@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we”, “us”, or “our” is used, we mean EPA.

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