

conjunction with the first day of the NACE meeting.

The committee will hear presentations from three panels of researchers on etiology and intervention. Following these panel presentations, the committee will have the opportunity to ask questions on the presentations and discuss relevant issues raised by the presentations. The panel presentations and discussions will be facilitated by John Howard, M.D., Director, National Institute for Occupational Safety and Health. On Wednesday, January 28, the committee will hear presentations on the diagnosis of carpal tunnel syndrome and also presentations on the advantages of a good ergonomics program. Following these presentations, the committee's working groups on Research, Guidelines, and Outreach and Assistance will meet. The working groups will report back to the full committee that afternoon and lead discussions about their respective topics.

## II. Public Participation

Written data, views, or comments for consideration by NACE on the various agenda items listed above may be submitted, preferably with copies for the NACE members, to MaryAnn Garrahan at the address listed above. Submissions received by January 20, 2004, will be provided to the committee members for consideration. Requests to make oral presentations to the committee may be granted if time permits. Anyone wishing to make an oral presentation to the committee should notify MaryAnn Garrahan at the address noted above. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Persons who request an oral presentation may be allowed to speak, as time permits, at the discretion of the Chair of the Advisory committee.

Persons with disabilities requiring special accommodations should contact Veneta Chatmon (Phone: (202) 693-1912; Fax (202) 693-1635 by January 9, 2004.

A transcript of the meeting will be available for inspection and copying in the OSHA Technical Data Center, Room N-2625 (see ADDRESSES section above) Phone: (202) 693-2350. Transcripts of NACE meetings will also be available online on OSHA's Web site at [http://www.osha.gov/SLTC/ergonomics/nat\\_advis\\_comm.html](http://www.osha.gov/SLTC/ergonomics/nat_advis_comm.html).

**Authority:** This notice was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health.

It is issued under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), GSA's FACA Regulations (41 CFR part 102-3), and DLMS 3 Chapter 1600.

Signed at Washington, DC this 29th day of December, 2003.

**John L. Henshaw,**

*Assistant Secretary.*

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**BILLING CODE 4510-26-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:** Initiation of voluntary negotiation period.

**SUMMARY:** The Copyright Office is announcing the initiation of the voluntary negotiation period for determining reasonable rates and terms for two compulsory licenses, which in one case, allows public performances of sound recordings by means of eligible nonsubscription transmissions, and in the second instance, allows the making of an ephemeral phonorecord of a sound recording in furtherance of making a permitted public performance of the sound recording for the period beginning January 1, 2005 and ending on December 31, 2006.

**EFFECTIVE DATE:** The voluntary negotiation period begins on January 6, 2004.

**ADDRESSES:** Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered by a commercial, non-government courier or messenger, they must be delivered to: The Congressional Courier Acceptance Site, located at 2nd and D Streets, NE., between 8:30 a.m. and 4 p.m. If hand delivered by a party, copies of voluntary license agreements and petitions should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room 403, First and Independence Avenue, SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Tanya M. Sandros, Senior Attorney, 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 the 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(f).

The scope of this license was expanded in 1998 upon passage of the Digital Millennium Copyright Act of 1998 ("DMCA" or "Act"), 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(a), by a preexisting satellite digital audio radio service or as part of an eligible nonsubscription transmission.

An "eligible nonsubscription transmission" is a noninteractive, digital audio transmission which, as the name implies, does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings the purpose of which is to provide audio or entertainment programming, but not to sell, advertise, or promote particular goods or services. A "preexisting satellite digital audio radio service" is a subscription digital audio radio service that received a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998. See 17 U.S.C. 114(j)(6) and (10).

In addition to expanding the current § 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 § 114(d)(1)(C)(iv), to make an ephemeral recording of a sound recording for purposes of a later transmission. The new license also provides a means by which a transmitting entity with a statutory license under § 114(f) can make more than the one phonorecord permitted by the exemption specified in § 112(a). 17 U.S.C. 112(e).

### Determination of Reasonable Terms and Rates

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, unless a different period is otherwise agreed upon by the parties as part of a negotiated agreement.

Parties may submit such an agreement to the Copyright Office and request that the Office publish the proposed rates and terms in the **Federal Register** for comment from the public. If no party with a substantial interest and an intent to participate in an arbitration proceeding files a comment opposing the negotiated rates and terms, the Librarian may adopt the proposed terms and rates without convening a copyright arbitration royalty panel. 37 CFR 251.63(b). On the other hand, if the affected parties are unable to reach an industry-wide agreement, or only certain parties negotiate private license agreements, then rates and terms for the statutory licenses are established through the arbitration process.

The arbitration process begins when an interested party files a petition with the Librarian of Congress during the 60-day period specified by the statute and requests that the rates be set through the CARP process. The petition must be filed by a party with a significant interest in the outcome of the proceeding and it must identify "the extent to which the petitioner's interest is shared by other owners or users." 17 CFR 251.62(a). For both the section 112 and section 114 licenses, the period for filing a petition to set rates and terms for the 2005 and 2006 license period shall begin on July 1, 2004. 17 U.S.C. 112(e)(6) and 114(f)(2)(C)(ii)(II).

#### Initiation of Voluntary Negotiations

Unless the schedule for setting terms and rates has been readjusted by the parties in a previous rate adjustment proceeding, §§ 112(e)(6) and 114(f)(2)(C)(i)(II) of the Copyright Act require the publication of a notice in January 2000, and at 2-year intervals thereafter, initiating the voluntary negotiation periods for determining reasonable rates and terms for the statutory licenses permitting the public performance of a sound recording by means of certain digital transmissions and the making of an ephemeral recording in accordance with § 112(e). See 65 FR 2194 (January 13, 2000) and 67 FR 4472 (January 30, 2002). The publication of today's notice fulfills this requirement.

The negotiation period shall begin on January 6, 2004 and end on June 30,

2004. Parties who negotiate a voluntary license agreement during this period are encouraged to submit two copies of the agreement to the Copyright Office at the appropriate address listed above within 30 days of its execution.

#### Petitions

In the absence of a license agreement negotiated under 17 U.S.C. 112(e)(4) or 114(f)(2)(A), those copyright owners of sound recordings and entities availing themselves of the statutory licenses are subject to arbitration upon the filing of a petition by a party with a significant interest in establishing reasonable terms and rates for the statutory licenses. Petitions must be filed in accordance with 17 U.S.C. 112(e)(7), 114(f)(2)(C)(ii)(II), and 803(a)(1) and may be filed any time during the sixty-day period beginning on July 1, 2004. See also, 37 CFR 251.61. Parties should submit petitions to the Copyright Office at the appropriate address given in this notice. The petitioner must deliver an original and five copies to the Office.

Dated: December 30, 2003.

**Marilyn J. Kretsinger,**

*Associate General Counsel.*

[FR Doc. 04-183 Filed 1-5-04; 8:45 am]

BILLING CODE 1410-33-P

#### MEDICARE PAYMENT ADVISORY COMMISSION

##### Commission Meeting

**AGENCY:** Medicare Payment Advisory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Commission will hold its next public meeting on Wednesday, January 14, 2004, and Thursday, January 15, 2004, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentatively scheduled to begin at 9 a.m. on January 14, and at 9 a.m. on January 15.

Topics for discussion include: recommendations on payment adequacy analyses for hospitals, physicians, outpatient dialysis, ambulatory surgical centers, home health, and skilled nursing facilities; and Medicare+Choice. Presentations will also be made on long-term care hospitals and dual eligible beneficiaries.

Agencies will be e-mailed approximately one week prior to the meeting. The final agenda will be available on the Commission's Web site (<http://www.MedPAC.gov>).

**ADDRESSES:** MedPAC's address is: 601 New Jersey Avenue, NW., Suite 9000,

Washington, DC 20001. The telephone number is (202) 220-3700.

**FOR FURTHER INFORMATION CONTACT:** Diane Ellison, Office Manager, (202) 220-3700.

**Mark E. Miller,**

*Executive Director.*

[FR Doc. 04-119 Filed 1-5-04; 8:45 am]

BILLING CODE 6820-BW-M

#### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293]

##### Entergy Nuclear Generation Company, Entergy Nuclear Operations, Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has granted the request of Entergy Nuclear Operations, Inc. (the licensee) to withdraw its August 19, 2002, application for proposed amendment to Facility Operating License No. DPR-35 for the Pilgrim Nuclear Power Station, located in Plymouth County, Massachusetts. The licensee's application was supplemented by letters dated February 14, March 27, and April 14, 2003.

The proposed amendment would have modified the facility Technical Specifications (TSs) pertaining to post-accident monitoring instrumentation requirements to make the TSs more consistent with the Standard Technical Specifications for boiling water reactors.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 24, 2002 (67 FR 78519). However, by letter dated November 6, 2003, the licensee withdrew the amendment request.

For further details with respect to this action, see the application for amendment dated August 19, 2002, as supplemented by letters dated February 14, March 27, and April 14, 2003, and the licensee's letter dated November 6, 2003, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://>