Under the NPRM, not all operators exempted from certification requirements would also be exempted from the evaluation requirements. Proposed § 1926.1427(a)(2) continues the existing exemption from the training and certification requirements in that section for operators of three types of equipment: Derricks, sideboom cranes, and equipment with a maximum manufacturer-rated hoisting/lifting capacity of 2,000 pounds or less. In the current crane standard, these three types of equipment are exempt from all of the requirements in § 1926.1427 as the result of language in § 1926.1427(a) and specific exemptions in §§ 1926.1436(q), 1440(a), and 1441(a). The proposed rule would not, however, exempt employers from the requirements in § 1926.1427(f) to evaluate the potential operators of those types of equipment to ensure that they have sufficient knowledge and skills to perform the assigned tasks with the assigned equipment. Accordingly, OSHA proposes to preserve the evaluation requirements through the revision of the language in § 1926.1427(a) and corresponding edits to narrow the exemptions in §§ 1926.1436(q), 1440(a), and 1441(a).

Proposed Section 1926.1427(h)—Language and Literacy

Existing § 1926.1427(h) allows operators to be certified in a language other than English, provided that the operator understands that language. Proposed paragraph (h) is nearly identical to existing paragraph (h) with the exception that it removes the reference to the existing qualification language in paragraph (b)(2), which has been replaced.

Proposed Sections 1926.1436(q)—Derricks, 1926.1440(a)—Sideboom Cranes, and 1926.1441(a)—Equipment With a Rated Hoisting/Lifting Capacity of 2,000 Pounds or Less

As discussed earlier, OSHA proposed to amend paragraphs §§ 1926.1436(q), 1926.1440(a), and 1926.1441(a) to ensure that the evaluation requirements in § 1926.1427(f) apply to employers using derricks, sideboom cranes, and equipment with a rated capacity of 2,000 pounds or less.

Type of Review: New.
Agency: DOL—OSHA.
Title: Cranes and Derricks in Construction: Operator Qualification.

Total Estimated Number of Annualized Respondents: 117,130.
Total Estimated Number of Annualized Responses: 75,591.

**Total Estimated Number of Annual Burden Hours:** 4,773.
**Response Frequency:** Various.
**Total Number of Annual Other Costs Burden:** $71.

**D. Public Participation—Submission of Comments on This Document and Internet Access to Comments and Submissions**

The agency encourages commenters to submit their comments related to the agency’s clarification of the information collection requirements to the docket for this document (Docket Number OSHA–2018–0009). For instructions on submitting these comments to the docket for this document, see the sections of this Federal Register document titled DATES and ADDRESSES. Please note that comments on the information collection requirements already submitted to the agency in response to the NPRM will be considered; the public need not resubmit those comments in response to this solicitation. (See: https://www.regulations.gov/document?D=OSHA-2007-0066-0679.) Please also note that the docket for this document, Docket Number OSHA–2018–0009, exists solely to collect comments on the information collection requirements in the NPRM. The NPRM and the other relevant documents for that rulemaking are in Docket Number OSHA–2007–0066, available on http://www.regulations.gov.

**E. Authority and Signature**

Loren Sweat, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this document. The authority for this document is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor’s Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on July 17, 2018.

Loren Sweat,
Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–15567 Filed 7–27–18; 8:45 am]

BILLING CODE 4510–26–P

**LIBRARY OF CONGRESS**

**Copyright Royalty Board**

37 CFR Part 387

[Docket No. 15–CRB–0010–CA–S]

**Adjustment of Cable Statutory License Royalty Rates**

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

**ACTION:** Proposed rule; modified.

**SUMMARY:** The Copyright Royalty Judges (Judges) publish for comment modified proposed regulations to require affected cable systems to pay a separate per-telecast royalty (a Sports Surcharge) in addition to the other royalties that those cable systems must pay under Section 111 of the Copyright Act.

**DATES:** Comments and objections are due no later than August 29, 2018.

**ADDRESSES:** You may submit comments and objections, identified by docket number 15–CRB–0010–CA–S (2019–2023), by any of the following methods: CRB’s electronic filing application: Submit comments online in eCRB at https://app.crb.gov/.

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE, Washington, DC 20559–6000. Deliver to: Congressional Courier Acceptance Site, 2nd Street NE and D Street NE, Washington, DC; or


Instructions: Unless submitting online, commenters must submit an original, two paper copies, and an electronic version on a CD. All submissions must include a reference to the CRB and this docket number. All submissions will be posted without change to eCRB at https://app.crb.gov/ including any personal information provided.

Docket: For access to the docket to read submitted background documents or comments, go to eCRB, the Copyright Royalty Board’s electronic filing and case management system, at https://app.crb.gov/ and search for docket number 15–CRB–0010–CA–S.

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

**SUPPLEMENTARY INFORMATION:** On July 2, 2018, the Copyright Royalty Judges (Judges) received a motion from the Joint Sports Claimants (JSC), the

1 The Joint Sports Claimants are the Office of the Commissioner of Baseball, the National Football League, the National Basketball Association, the Women’s National Basketball Association, the

On November 23, 2015, JSC filed a rate adjustment petition pursuant to Section 801(b)(2)(C) of the Copyright Act. In June 2016 the Judges established a procedural schedule for ruling on the JSC petition, Order of Bifurcation . . . and Scheduling Order (June 2016 Order). While the moving parties were unable to settle this matter during the voluntary negotiation period established by the June 2016 Order, they continued negotiations and agreed that this proceeding should be terminated with the adoption of a proposed rule.

Upon motion of the Participants in January 2017, the Judges published the proposed rule and received comments. See 82 FR 24611 (May 30, 2017). The Judges then published, in September 2017, a request for further comments on the proposed rule. See 82 FR 44368. After reviewing reply and surreply comments, they declined to adopt the proposed rates and reinstated a case schedule. Order Reinstating Case Schedule (Jan. 12, 2018).

In declining to adopt the proposed settlement the Judges noted that the applicable license in this proceeding is the license to retransmit by cable beyond the local service area the works of “any . . . owner whose work was included in a secondary transmission made by a cable system . . . in whole or in part.” 17 U.S.C. 111(d)(3). [Major League Soccer [MLS]] and potentially other professional sports leagues are owners of, or represent owners of, copyrights to televised professional team sports events. The regulations proposed by the JSC define an “eligible professional sports event” to include only professional baseball, basketball (men and women), football, and hockey. By definition, MLS and any other professional league scheduling team sports events for telecast (and retransmission by those affected cable systems) would be ineligible to receive any portion of the sports programming surcharge negotiated by the JSC and cable providers. This proposed regulatory configuration provides for licensing royalties from Form 3 cable systems for some sports leagues to the express exclusion of other leagues that own or represent owners of protected works.

As proposed, the regulation for the exclusive benefit of Major League Baseball, the National Basketball Association, the National Football League, the National Hockey League, and the Women’s National Basketball Association is contrary to the applicable section 111 license. The Judges decline to adopt the proposed settlement as a basis for regulations that would bind nonparticipants to a zero rate.

Order Reinstating Case Schedule at 2.

In April 2018, MLS filed a late Petition to Participate (PTP) and accompanying motion for the Judges to accept it. The Judges granted the motion and accepted the PTP on July 20, 2018. In July 2018, the participants filed a modified proposed rule that addressed the Judges’ concerns regarding the proposed rule. Joint Motion at 4, 8. MLS does not object to the modified proposed rule. Id. at 2. The Judges hereby publish it for comment.

B. Scope of the Modified Proposed Rule

According to the moving parties, the modified proposed Sports Surcharge differs from the January 2017 proposal in two key respects: A cable operator’s obligation to pay a Sports Surcharge royalty is not limited to retransmissions of sports events affiliated with specific JSC members; 2 and the modified Sports Surcharge includes language expressly stating that no copyright owner of a retransmitted telecast of a sports event is precluded from seeking Sports Surcharge royalties if the retransmission would have been subject to deletion under the former FCC Sports Blackout Rule. Joint Motion at 2.

The moving parties also state that “nothing in the proposed rule would require the Judges to distribute the Sports Surcharge royalties” only to sports organizations whose telecasts trigger the “pay-in” obligation. Rather, “[t]he determination of the recipients of those royalties (and the amount of royalties those recipients should receive) would be addressed by the Judges in future allocation and distribution proceedings” absent a settlement. Id. at 4. As modified, the rule draws a bright line between the “pay-in” methodology by which affected cable systems will compute their surcharge royalty payment obligations and the “pay out” process by which those royalty payments are distributed. Id. at 5.

According to the moving parties, the modified Sports Surcharge does not
change the previously agreed upon per event royalty rate of 0.025 percent of an affected cable system’s gross receipts. Moreover, the definition of which cable systems may have to pay the surcharge has not changed (i.e., systems that would have been subject to the FCC Sports Blackout Rule prior to its repeal).

Under the modified rule, a cable system’s retransmission of a sports event telecast that would have been subject to deletion under the FCC Sports Blackout Rule triggers a Sports Surcharge pay-in by the system’s operator—as long as the holder of the broadcast rights in the event (or its agent) provides the affected system: (1) Written notice containing information comparable to that required to invoke the former FCC Sports Blackout Rule; and (2) documentary evidence that the sports entity giving the notice required to trigger the Sports Surcharge pay-in provision previously invoked the FCC Sports Blackout Rule between January 1, 2012 and November 23, 2014 (the day before the repeal of the rule took effect). Joint Motion at 6.

With respect to certain collegiate events, the pay-in rule caps the maximum number of events involving a specific team that can trigger an affected cable system’s surcharge payment obligation in a particular accounting period based on the largest number of events as to which the FCC Sports Blackout Rule was invoked by that specific sports entity during any of the accounting periods occurring during the January 1, 2012 through November 23, 2014 period. Id. at 12.

In addition, the Joint Motion proposes a new effective date in 2019 and points out that the rule proposal can be reconsidered in 2020 pursuant to a new effective date in 2019 and points out that the rule proposal can be reconsidered in 2020 pursuant to the Statute.

C. The Judges’ Authority To Adopt the Proposed Rule

According to the moving parties, “a key Congressional objective underlying the judges’ rate-setting authority is the promotion of voluntary settlements rather than litigation.” Id. at 7, citing H.R. Rep. No. 108-408 at 24 (2004) (referring to the legislative policy of “facilitating and encouraging settlement agreements for determining royalty rates”). Consistent with that objective, the Judges may accept a settlement reached by “some or all of the participants” in a rate proceeding “at any time during the proceeding.” 17 U.S.C. 801(b)(7)(A).

The Act requires that the Judges afford those who “would be bound by the terms, rates or other determination”, in an settlement agreement “an opportunity to comment on the agreement.” 17 U.S.C. 801(b)(7)(A)(i). The Copyright Royalty Board rules also require that the Judges “publish the settlement in the Federal Register for notice and comment from those bound by the terms, rates, or other determination set by the agreement.” 37 CFR 351.2(b)(2).

D. Solicitation of Comments

The Judges seek comments on the moving parties’ proposal. In particular, the Judges seek comment on whether the proposal is consistent with Section 111 of the Copyright Act which provides that the applicable license granted in that section is the license to retransmit by cable beyond the local service area the works of “any . . . owner whose work was included in a secondary transmission made by a cable system . . . in whose or in part . . . .” 17 U.S.C. 111(d)(3), and consistent with the Judges’ interpretation of that section as elaborated in the Order Reinstating Case Schedule.

In addition to general comments for or against the proposal, the Judges seek comment on whether the proposed provision in section 387.2(e)(9) (“Nothing herein shall preclude any copyright owner of a live television broadcast, the secondary transmission of which would have been subject to deletion under the FCC Sports Blackout Rule, from receiving a share of royalties paid pursuant to this paragraph.”) could apply to the secondary transmissions of the live television broadcasts of any entity other than a current member of the JSC.3 In other words, would the phrase “the secondary transmission of which would have been subject to deletion under the FCC Sports Blackout Rule” enable any entity beyond the current members of the JSC to qualify for a share of royalties from the Sports Surcharge? If the answer is yes, which entities’ transmissions would qualify for a share? If the answer is no (i.e., only JSC members could qualify), then is the current proposal nevertheless still consistent with the Section 111 license? If so, why?

Interested parties may comment and object to the modified proposed regulations contained in this notice. Such comments and objections must be submitted no later than August 29, 2018.

List of Subjects in 37 CFR Part 387

Copyright, Cable television, Royalties.

Modified Proposed Regulations

For the reasons set forth in the preamble, and under the authority of chapter 8, title 17, United States Code, the Copyright Royalty Judges proposes to amend 37 CFR chapter III as follows:

§ 387—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

1. The authority citation for part 387 continues to read as follows:


2. Amend § 387.2 by:

a. Redesignating paragraph (e) as paragraph (f) and

b. Adding a new paragraph (e) to read as follows:

(e) Sports programming surcharge. Commencing with the first semiannual accounting period of 2019 and for each semiannual accounting period thereafter, in the case of an affected cable system filing Form SA3 as referenced in 37 CFR 201.17(d)(2)(ii) (2014), the royalty rate shall be, in addition to the amounts specified in paragraphs (a), (c) and (d) of this section, a surcharge of 0.025 percent of the affected cable system’s gross receipts for the secondary transmission to subscribers of each live television broadcast of a sports event where the secondary transmission of such broadcast would have been subject to

3 See note 1, supra.
deletion under the FCC Sports Blackout Rule. For purposes of this paragraph,
(1) The term “cable system” shall have the same meaning as in 17 U.S.C.
111(f)(3);
(2) An “affected cable system” (i) is a “community unit,” as the comparable
term is defined or interpreted in accordance with § 76.5(dd) of the rules
and regulations of the Federal Communications Commission in effect
as of November 23, 2014, 47 CFR 76.5(dd) (2014);
(ii) that is located in whole or in part
within the 35-mile specified zone of a
television broadcast station licensed to
a community in which a sports event is
taking place, provided that if there is no
television broadcast station licensed to
a community in which a sports event is
taking place, the applicable specified
zone shall be that of the television
broadcast station licensed to the
community with which the sports event
or team is identified, or, if the event or
local team is not identified with any
particular community, the nearest
community to which a television station
is licensed; and
(iii) whose royalty fee is specified by
17 U.S.C. 111(d)(1)(B);
(3) A “television broadcast” of a
sports event must qualify as a “non-
network television program” within the
meaning of 17 U.S.C. 111(d)(3)(A);
(4) The term “specified zone” shall be
defined as the comparable term is
defined or interpreted in accordance
with § 76.5(e) of the rules and
regulations of the Federal
Communications Commission in effect
as of November 23, 2014, 47 CFR 76.5(e)
(2014);
(5) The term “gross receipts” shall have the same meaning as in 17 U.S.C.
111(d)(1)(B) and shall include all gross
receipts of the affected cable system
during the semiannual accounting
period except those from the affected
cable system’s subscribers who reside in
(i) the local service area of the primary
transmitter, as defined in 17 U.S.C.
111(f)(4);
(ii) any community where the cable
system has fewer than 1,000 subscribers;
(iii) any community located wholly
outside the specified zone referenced in
paragraph (e)(4) above; and
(iv) any community where the
primary transmitter was lawfully carried
prior to March 31, 1972;
(6) The term “FCC Sports Blackout
Rule” refers to § 76.111 of the rules and
regulations of the Federal
Communications Commission in effect
as of November 23, 2014, 47 CFR 76.111
(2014);
(7) Subject to paragraph (e)(8) of this
section, the surcharge will apply to the
secondary transmission of a primary
transmission of a live television
broadcast of a sports event only where
the holder of the broadcast rights to the
sports event or its agent has provided
the affected cable system
(i) Advance written notice regarding
such secondary transmission as required
by § 76.111(b) and (c) of the FCC Sports
Blackout Rule and
(ii) documentary evidence that the
specific team on whose behalf the notice
is given had invoked the protection
afforded by the FCC Sports Blackout
Rule during the period from January 1,
2012, through November 23, 2014;
(8) In the case of collegiate sports
events, the number of events involving
a specific team as to which an affected
cable system must pay the surcharge
will be no greater than the largest
number of events as to which the FCC
Sports Blackout Rule was invoked in a
particular geographic area by such team
during any one of the accounting
periods occurring between January 1,
2012, and November 23, 2014;
(9) Nothing herein shall preclude any
copyright owner of a live television
broadcast, the secondary transmission of
which would have been subject to
deletion under the FCC Sports Blackout
Rule, from receiving a share of royalties
paid pursuant to this paragraph.
* * * *
Dated: July 24, 2018.
Jesse M. Feder,
Copyright Royalty Judge.
[FR Doc. 2018–16175 Filed 7–27–18; 8:45 am]
BILLING CODE 1410–72–P