

Before the  
**COPYRIGHT ROYALTY BOARD**  
**LIBRARY OF CONGRESS**  
Washington, DC

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In the Matter of	)	
	)	
Notice and Recordkeeping for Use of	)	
Sound Recordings Under Statutory	)	Docket No. 14–CRB–0005 (RM)
License	)	
Notice of proposed rulemaking	)	
	)	
_____	)	

**Comments of KUIW**

Pursuant to the above captioned Notice of Proposed Rulemaking ("Notice") which appeared in the Federal Register on May 2, 2014, KUIW submits its comments. Noncommercial Educational Webcaster ("NEW") as defined by 37 CFR §380.21. Since KUIW does not possess an FCC license, it cannot qualify as a "minimum fee broadcaster" as currently defined in 37 CFR 370.4(b)(3).

The designation as a NEW has suited us well as the Reporting requirements under 37 CFR §380.23 provide KUIW to Reports of Use through Proxy Fee. We would like to retain the ability to report as a NEW for as long as possible, and request that the regulations which appear to sunset these recordkeeping provisions be removed so we can continue to report as a NEW even after December 31, 2015. The §380.23 regulations were adopted as precedent and should be allowed to remain as the recordkeeping and reporting regulations as they serve us well, will allow us to continue to webcast and have been previously approved and adopted as a reasonable.

Barring that outcome, KUIW fully supports the proposed changes to 37 CFR §370.4(b)(2) which would qualify KUIW as a Minimum Fee Broadcaster in the event that the classification of a NEW is no longer available after January 1, 2016 as that the only option which MIGHT allow us to continue to survive as a student operated, non-profit educational station.

In the Notice, the Copyright Royalty Judges (“Judges”) asked how unlicensed minimum fee Educational Stations have been reporting under the current regulations. As detailed above, my station has KUIW has been reporting under §380.23. If it were not for this section of the regulations, if KUIW had to report all the songs and the amount of listeners we would not be able to exist. The Judges further asked if the proposed change is warranted. If the ability to report as a NEW went away and our only option would be to report census data on a monthly basis with ATP, KUIW would likely have to quit broadcasting and we would have to close the station because KUIW would not have the resources or the student workforces to comply. As such, KUIW believes the changes are warranted if ability to report under §380.23 were to sunset.

The Notice also proposes numerous changes requested by Sound Exchange. KUIW does not agree with the proposed regulations which specify use of “UTF-8 *if feasible*” as opposed to the outright elimination of the use of ASCII. We may not have the students to actually do any kind of input in order to comply with this part of the proposal.

With respect to the elimination of the requirement of a template in Quatro Pro, KUIW has no objection; however we respectfully request that this requirement be replaced with a template as Google spreadsheet. Also, the current Excel template should be updated to conform to any and all proposed changes.

KUIW feels that the requirement to submit a copy the Notice of Use directly to Sound Exchange is unnecessary and likely to be overlooked. This problem would be eliminated if KUIW could complete a form on-line and submit payment via USPS. A copy of the electronic submission could then automatically be forwarded to Sound Exchange.

KUIW is very relieved to see that the proposed regulations included the qualifier, “if feasible” with respect to reporting the ISRC because it is absolutely not feasible for that to happen at KUIW. With our limited resources and especially student workers, this would be a major problem for us.

KUIW must object to these new requirements

KUIW must also strongly object to the proposed new requirement to be required to add the “The letters “NLR” (for “no license required”) if the Service has excluded the sound recording from its calculation of statutory royalties in accordance with regulations setting forth the applicable royalty rates and terms because transmission of the sound recording does not require a license, or the letters “DL” (for “direct license”) if the Service has excluded the sound recording from its calculation of statutory royalties in accordance with regulations setting forth the applicable royalty rates and terms because the Service has a license directly from the copyright owner of such sound recording.”

MY STATION objects because live DJ’s who do not know and would guess at the data. The DJ has no way of knowing if the information in our system is correct, was

ever in there and we do not have the students to input data to our library of over 50,000 digital recordings.

KUIW is uncomfortable with the provisions for a late fee for “non-compliant” reports of use, even if timely filed. What constitutes a non-compliant ROU? Is that one line of data with missing information or a typo? What is the threshold level of non-compliance which would justify a late fee?

KUIW must object to the proposed change of due date for ROUs submitted from the current 45 days after the close of the relevant reporting period to 30 days because of the time need to check for accuracy of the data. It becomes burdensome just to have student DJ’s writing down or inputting data in our station.

### **Conclusion**

For the above reasons, KUIW believes that the §380.23 provisions for NEWS should be extended indefinitely as we may not exist if they go away. In the alternative, the proposed changes to 37 CFR §370.4(b)(2) should be adopted so KUIW might have a chance to survive.

MY STATION objects to the recordkeeping of data. This will place a huge burden on our station to where we would have to shut down. This is a teaching institution and we have had our station on the air since 2005. It was the least expensive way to teach radio acumen and get our students trained in the operation of a station. Please do not let these new proposed regulations take away our ability to create individuals capable of work at a station in the future with no station experience whatsoever.

Respectfully submitted,

Dated: June 2nd

A handwritten signature in black ink on a light blue background. The signature is cursive and reads "Hank McDonnell".

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