

and welcomes additional comments and information related to the unserved household limitation.

*Part Two: Harm to Copyright Owners*

Part Two of the study is an inquiry as to the extent to which satellite retransmissions of superstations and network stations under the section 119 license harm copyright owners of broadcast programming in the United States and the effect, if any, of the section 122 license, which permits royalty-free retransmission of local stations, in ameliorating such harm. "Harm" is generally understood to mean the difference in the price that copyright owners would have been able to charge satellite carriers for their programming and the price they actually receive under the fees established for section 119.<sup>5</sup> At one point in time, the Copyright Royalty Tribunal considered the extent to which different categories of copyright owners (e.g. owners of movies and syndicated television series, sports programmers, owners of noncommercial broadcasting programming, etc.) were harmed by the existence of the section 111 cable license in determining the share of royalties each programming category should receive. That approach was altered by a Copyright Arbitration Royalty Panel ("CARP") in 1996 in a cable royalty distribution proceeding, and it is established precedent in the context of cable royalty distribution proceedings that copyright owners of all programming categories are harmed equally by the existence of the section 111 license. See *Distribution of 1990-1992 Cable Royalties*, Distribution Order, 61 FR 55653, 55658-59 (October 28, 1996). That precedent would presumably apply to a contested distribution proceeding conducted under section 119 should one take place. Nevertheless, the Copyright Office is interested in data, information, and analysis that demonstrates whether and to what extent particular program categories are harmed by the section 119 license.

Because virtually all over-the-air television stations retransmitted by satellite carriers are licensed through the section 119 license, it is difficult to speculate as to how the licensing of broadcast programming would operate in the absence of the license. In other words, what would be the fair market value of different types of broadcast programming if there was no section

119 license, and how would the licensing of that programming be handled (i.e. by the broadcasters, by some type of collective rights organization, etc.)? In the 1997 proceeding to adjust the section 119 royalty rates, the CARP was required to determine the fair market value of superstations and network stations retransmitted by satellite carriers. In making this determination, the CARP examined data from parallel markets. Specifically, the CARP considered the amounts received by programmers of cable-originated networks (ESPN, A&E, and other cable channels that are similar to broadcast channels) who operate in the free market without a statutory license as a proxy for the fair market value of broadcast programming. See 62 FR 55742 (October 28, 1997). The Copyright Office seeks updated data similar to that submitted in the 1997 rate adjustment proceeding as a means of approximating what copyright owners might have received in the absence of the section 119 license, along with analyses of that data that explain how copyright owners have been harmed by being deprived of the ability to license those works to satellite carriers in the open market. Data that compares what satellite carriers would have paid under approximate fair market value scenarios to what was actually paid under the section 119 license is helpful. In addition, the Office seeks information as to how the licensing of broadcast retransmissions by satellite carriers might be handled in the absence of section 119 and approximations as to the costs associated with collecting and distributing royalties.

In assessing the fair market value of broadcast programming, the Copyright Office recognizes that there may be factors beyond consideration of parallel markets. For example, FCC regulations governing satellite retransmissions can ultimately have an effect on the price of programming protected by the copyright laws. The FCC's syndicated exclusivity rules, sports blackout rules, and the network nonduplication rules may play some role in reducing harm to copyright owners from section 119 retransmissions. The Copyright Office requests information and analysis on this possibility. In addition, the Office notes that satellite broadcast retransmissions are exempt from the retransmission consent provisions of the communications law. See 37 U.S.C. 325. What impact, if any, does the retransmission consent exemption have on harm to copyright owners from

broadcast retransmissions under section 119?

Finally, Part Two of the study requires the Copyright Office to consider the effect of the section 122 license on harm caused to copyright owners by section 119 retransmissions. Section 122 is a royalty-free statutory license created during the 1999 reauthorization of section 119 that permits satellite carriers to retransmit superstations and network stations to subscribers that reside within the local markets of those stations. 17 U.S.C. 122. The Office is interested in data, information, and analysis that demonstrates changes in royalties paid under section 119 before and after the adoption of section 122, and any other information demonstrating any impact section 122 may have had on the section 119 royalties or any other effect section 122 has had on harm caused to copyright owners by section 119 retransmissions.

Commenters are encouraged to provide not only the data, information, and analyses requested in this Notice of Inquiry but also any other data, information, and/or analyses they deem relevant to the issues presented in section 110 of SHVERA. The Copyright Office welcomes the opportunity to meet with representatives of satellite carriers, copyright owners, broadcasters, and other parties affected by sections 119 and 122 of the Copyright Act in order to obtain additional relevant information and to hear their concerns.

Dated: June 30, 2005.

**Marybeth Peters,**

*Register of Copyrights.*

[FR Doc. 05-13332 Filed 7-6-05; 8:45 am]

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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts; Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that four meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows:

*Music (Access to Artistic Excellence, Panel B):* July 25-27, 2005 in Room 714. A portion of this meeting, from 3:30 p.m. to 4:30 p.m. on Wednesday, July 27th, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m.

<sup>5</sup>It is possible for copyright owners to be harmed in other ways by distant signal retransmissions. The Copyright Office is interested in receiving comments and information regarding other types of "harm."

on July 25th, from 9 a.m. to 5:30 p.m. on July 26th, and from 9 a.m. to 3:30 p.m. and 4:30 p.m. to 5 p.m. on July 27th, will be closed.

*Music (Access to Artistic Excellence, Panel C):* July 28–29, 2005 in Room 714. This meeting, from 9 a.m. to 6 p.m. on July 28th and from 9 a.m. to 4:45 p.m. on July 29th, will be closed.

*Opera (Access to Artistic Excellence, Panel A):* August 8–9, 2005 in Room 716. A portion of this meeting, from 4:30 p.m. to 5:15 p.m. on Tuesday, August 9th, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on August 8th and from 9 a.m. to 4:30 p.m. and 5:15 p.m. to 5:45 p.m. on August 9th, will be closed.

*Opera (Access to Artistic Excellence, Panel B):* August 10, 2005 in Room 716. This meeting, from 9 a.m. to 4:15 p.m., will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 682–5532, TDY–TDD (202) 682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5691.

Dated: July 1, 2005.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations,  
National Endowment for the Arts.*

[FR Doc. 05–13376 Filed 7–6–05; 8:45 am]

**BILLING CODE 7537–01–P**

## NATIONAL SCIENCE FOUNDATION.

### Notice of the Availability of a Draft Environmental Assessment

**AGENCY:** National Science Foundation.

**ACTION:** Notice of availability of a draft Environmental Assessment for proposed activities in the Pacific Ocean.

**SUMMARY:** The National Science Foundation gives notice of the availability of a draft Environmental Assessment for proposed activities in the Pacific Ocean.

The Division of Ocean Sciences in the Directorate for Geosciences (GEO/OCE) has prepared a draft Environmental Assessment for a marine geophysical survey by the Research Vessel *Roger Revelle* in the vicinity of Louisville Ridge in the Pacific Ocean, January–February 2006. The draft Environmental Assessment is available for public review for a 30-day period.

**DATES:** Comments must be submitted on or before August 8, 2005.

**ADDRESSES:** Copies of the draft Environmental Assessment are available upon request from: Dr. Alexander Shor, National Science Foundation, Division of Ocean Sciences, 4201 Wilson Blvd., Suite 725, Arlington, VA 22230. Telephone: (703) 292–8583. The draft is also available on the agency's Web site at [http://www.nsf.gov/geo/oce/pubs/scripps\\_louisville\\_ridge\\_EA.pdf](http://www.nsf.gov/geo/oce/pubs/scripps_louisville_ridge_EA.pdf).

**SUPPLEMENTARY INFORMATION:** The Scripps Institution of Oceanography (SIO), with research funding from the National Science Foundation (NSF), plans to conduct a marine survey on six seamounts of the Louisville Ridge in the Southwest Pacific Ocean during January–February, 2006. The proposed action is to conduct a planned scientific rock-dredging, magnetic, and seismic survey program to examine the eruptive history of the submarine volcanoes there, and to collect data needed to design an effective Integrated Ocean Drilling Program (IODP) study on carefully-selected seamounts. The research will be carried out entirely within International Waters.

Numerous species of cetaceans and sea turtles occur in the Southwest Pacific Ocean. Several of the species are listed as Endangered under the U.S. Endangered Species Act (ESA). The increased underwater noise from the research may result in avoidance behavior by some marine animals, and other forms of disturbance. An integral part of the planned survey is a monitoring and mitigation program to minimize impacts of the proposed activities of marine species present, and

to document the nature and extent of any effects. Injurious impacts to marine animal have not been proven to occur near equipment proposed to be used in this research; however, the planned monitoring and mitigation measures would minimize the possibility of such effects should they otherwise occur.

With the planned monitoring and mitigation measure, unavoidable impacts in each of the species of marine mammal that might be encountered are expected to be limited to short term localized changes in behavior and distribution near the seismic vessel. At most, such effects may be interpreted as falling within the Marine Mammal Protection Act (MMPA) definition of "Level B Harassment" for those species managed by NMFS. No long-term or significant effects are expected on individual marine mammals, or the populations to which they belong, or their habitats. The agency is currently consulting with the National Marine Fisheries Service regarding species within their jurisdiction potentially affected by this proposed activity.

Copies of the draft Environmental Assessment, titled "Environmental Assessment of a Planned Low-Energy Marine Seismic Survey by the Scripps Institution of Oceanography on the Louisville Ridge in the Southwest Pacific Ocean, January–February 2006", are available upon request from:

Dr. Alexander Shor, National Science Foundation, Division of Ocean Sciences, 4201 Wilson Blvd., Suite 725, Arlington, VA 22230. Telephone: (703) 292–8583 or at the agency's Web site at: [http://www.nsf.gov/geo/oce/pubs/scripps\\_louisville\\_ridge\\_EA.pdf](http://www.nsf.gov/geo/oce/pubs/scripps_louisville_ridge_EA.pdf). The National Science Foundation invites interested members of the public to provide written comments on this draft Environmental Assessment.

Dated: June 30, 2005.

**Alexander Shor,**

*Program Director, Division of Ocean Sciences,  
National Science Foundation.*

[FR Doc. 05–13316 Filed 7–6–05; 8:45 am]

**BILLING CODE 7555–01–M**

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

### Exelon Generation Company, LLC, PSEG Nuclear LLC; Peach Bottom Atomic Power Station, Units 2 and 3; Notice of Withdrawal of Application for Amendment to Renewed Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has