subtracted, two other subfunds—the Featured Recording Artist Subfund and the Sound Recording Owners
Subfund—receive 40% and 60%, respectively, of the remainder. In the Musical Works Fund, there are two subfunds—the Publishers Subfund and the Writers Subfund—which each receive 50% of that Fund. Thus, the Act establishes the percentages for each fund and subfund, but directs the CARPs, through the process of a distribution proceeding, to determine what amount each claimant within a subfund is entitled to receive.

Accordingly, the Act requires the Librarian of Congress to ascertain within 30 days after the last day for filing claims—March 30—whether there are any controversies among the claimants as to the proper distribution of the royalties in their fund and/or subfund. If there are controversies, then the Librarian is directed immediately to convene a CARP or CARPs to decide the proper distribution.

II. Consolidation of Proceedings

The first proceeding to be initiated under the new CARP system was the distribution of the 1992 and 1993 DART royalties. The 1992 DART distribution proceeding was begun by the Copyright Royalty Tribunal, but was suspended when the Tribunal was abolished and needed to be started anew. The 1993 DART distribution was begun by the Copyright Office under the new authority conferred by the Copyright Royalty Tribunal Reform Act of 1993. On March 1, 1994, the Office published a notice in the Federal Register seeking comment as to the existence of controversies in both the 1992 and the 1993 DART funds. 59 FR 9773 (March 1, 1994). The interested copyright parties reported that there were controversies in the Sound Recordings Fund and the Musical Works Fund for both 1992 and 1993. In addition, several of the larger claimants to both funds requested that the Office consolidate the 1992 and the 1993 DART distribution proceedings with the 1994 DART distribution proceeding and defer all consideration of DART distributions until 1995. After seeking comment on the request, the Office granted the motion to consolidate. 59 FR 35762 (July 13, 1994).

Subsequent to the consolidation of proceedings, the Copyright Office received notification from the claimants to the 1992 and 1993 Sound Recordings Fund that they had reached a settlement. On December 15, 1994, the Office issued a distribution order distributing all of the royalties in the 1992 and 1993 Sound Recordings Fund

to the parties designated in the settlement agreement. *Distribution Order*, Docket No. 94–2 CARP-DD (December 15, 1994). No settlement has been reached yet for either the 1992 or the 1993 Musical Works Fund.

III. Request for Comments and Notices of Intent To Participate

In accordance with the Copyright Office's consolidation order, 59 FR 35762, and 17 U.S.C. 1007, the Librarian of Congress and the Copyright Office are beginning distribution proceedings for the 1992 (Musical Works Fund only), 1993 (Musical Works Fund only), and 1994 (both funds) DART royalties (collectively the 1992–94 DART proceeding) by requesting that interested copyright parties comment as to the existence of controversies. Written comments are due by April 5, 1995.

To begin the distribution process for DART royalties, the pertinent regulation of the Copyright Office rules, 37 CFR 251.45(a), requires that:

[T]he Librarian of Congress shall, after the time period for filing claims, publish in the **Federal Register** a notice requesting each claimant on the claimant list to negotiate with each other a settlement of their differences, and to comment by a date certain as to the existence of controversies with respect to the royalty funds described in the notice. Such notice shall also establish a date certain by which parties wishing to participate in the proceeding must file with the Librarian a Notice of Intention to Participate.

See 59 FR 63041 (December 7, 1994).

A. Negotiating settlement. Section 251.45(a) places an affirmative duty on all claimants to DART royalties to contact each other and attempt to negotiate a settlement of their differences. The claimants to the 1992 and 1993 Sound Recordings Fund have already negotiated a settlement and have received a distribution of royalties. The 1992 and 1993 Sound Recordings Funds, therefore, are no longer a part of this DART distribution proceeding. The Musical Works Funds for 1992 and 1993, and the Sound Recordings Fund and Musical Works Fund for 1994, however, are part of this proceeding and claimants to these funds are subject to the negotiation requirement of § 251.45(a).

The purpose of the negotiation requirement is to make all of the claimants within each fund aware of each other and to encourage active participation and open discussion between them, thereby increasing the possibility of settlements. The Copyright Office has compiled a claimant list of all interested copyright parties who timely

filed a claim or claims for the 1992 and 1993 Musical Works Fund, and 1994 Musical Works and Sound Recordings Funds. The claimant lists are available from the Copyright Office at the addresses provided in this Notice, and claimants must use these lists in negotiating settlements with each other and in reporting on the existence of controversies to the royalty funds.

B. Comments as to controversies. In order to determine whether controversies exist for the 1992-94 DART proceeding, and consequently whether it will be necessary to convene a CARP or CARPs to distribute these royalties, we are asking the claimants to provide the Office with the following information: (a) Whether any controversies exist concerning distribution of the 1992 and 1993 Musical Works Fund, and the 1994 Musical Works and Sound Recordings Funds; (b) if controversies do exist, the particular subfunds for which they exist; and (c) if settlements have been made, the identity of all of the claimants who are covered by the settlement.

After the existence of any controversies are determined, the Audio Home Recording Act gives the Copyright Office 30 days to distribute those royalties not in controversy. In addition to the information solicited above, in order to determine the amount of royalties not in controversy, we are asking any claimants who report a controversy to state how much is in controversy in each subfund. The information provided should include each claimant's asserted percentage or dollar claim to the subfund, and a brief narrative justifying that asserted claim.

C. Notices of Intent to Participate. As prescribed by § 251.45(a), the Office is requesting all claimants who expect to participate in the 1992-94 DART proceeding to file a Notice of Intent to Participate with the Copyright Office. See 59 FR 63041. The Notice of Intent to Participate must be filed with the Office by May 5, 1995. Failure of a claimant to file a timely Notice of Intent to Participate, or to be represented by another claimant filing a timely notice, may subject the claim to dismissal. The filing of a Notice of Intent to Participate is thus critical to a claimant being able to present an effective claim.

IV. DART Deadline

A. DART deadline. The Audio Home Recording Act establishes several statutory deadlines to assure the speedy distribution of DART royalties. Claims are to be filed by the last day of February, each year. The existence of controversies is to be ascertained by March 30. Distribution of royalties not