

2. A new temporary § 165.T07–108 is added to read as follows:

**§ 165.T07–108 Security Zones; Crystal River, Florida.**

(a) *Regulated area.* The Coast Guard is establishing temporary fixed security zones around the Florida Power Crystal River nuclear power plant located at the end of the Florida Power Corporation Channel, Crystal River, Florida. The security zone for the Florida Power Corporation Channel encompasses the waters within the following points: 28° 56.87' N, 082° 45.17' W (Northwest corner), 28° 57.37' N, 082° 41.92' W (Northeast corner), 28° 56.81' N, 082° 45.17' W (Southwest corner), and 28° 57.32' N, 082° 41.92' W (Southeast corner). The security zone for the Demory Gap Channel encompasses the waters within the following points: 28° 57.61' N, 082° 43.42' W (Northwest corner), 28° 57.53' N, 082° 41.88' W (Northeast corner), 28° 57.60' N, 082° 43.42' W (Southwest corner), 28° 57.51' N, 082° 41.88' W (Southeast corner).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port or his designated representative. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 MHz).

(c) *Authority.* The authority for this section is 33 U.S.C. 1226; 49 CFR 1.46.

(d) *Dates.* This section is effective at 6 p.m. (EST) on November 21, 2001 and will remain in effect until 6 p.m. (EDT) on June 15, 2002.

Dated: November 20, 2001.

**A.L. Thompson, Jr.,**

*Captain, U.S. Coast Guard, Captain of the Port.*

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BILLING CODE 4910–15–P

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM2001–7]

### Disruption or Suspension of Postal or Other Transportation or Communications Services

**AGENCY:** Copyright Office.

**ACTION:** Interim regulations; Request for comments.

**SUMMARY:** The Copyright Office is adopting interim regulations to address the effect of a general disruption or

suspension of postal or other transportation or communications services on the Office's receipt of deposits, applications, fees, or any other materials, and the assignment of a date of receipt to such materials. When the Register of Copyrights has published a determination that there has been a general disruption or suspension of such services, persons who have sent materials to the Office and believe the Office's receipt of those materials has been delayed may submit evidence that the materials would have been received in the Office by a particular date but for the disruption or suspension. The Office may assign, as the date of receipt, the date on which the materials would have been received but for the disruption or suspension.

**DATES:** The effective date of the interim regulations is December 4, 2001. Comments should be submitted no later than January 3, 2002.

**ADDRESSES:** An original and 10 copies of comments and reply comments should be mailed to: Office of the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024–0400. If delivered by hand, copies should be brought to: Office of the Copyright General Counsel, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Patricia Sinn, Senior Attorney, Office of the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024–0400. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

**SUPPLEMENTARY INFORMATION:** Section 709 of title 17, United States Code provides that:

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

In cases of disruptions or suspensions of postal, transportation or communications services, section 709 permits the Register to assign, as the date of receipt for deposits, applications, fees and other materials submitted to the Office, the date on which the materials would have been

received but for the disruption or suspension, so long as the Office has actually received the material within one month after the disruption or suspension has ended.

The Office has not promulgated any regulations relating to determination of the appropriate date of receipt of materials when a general disruption or suspension of postal or other transportation or communications services has taken place. Until now, the Office has perceived no need for such regulations. However, recent events have, unfortunately, demonstrated that such regulations are necessary. Concerns about anthrax in United States Postal Service facilities in the District of Columbia have caused severe disruptions of postal service to the Office since October 17.

Today the Register of Copyrights is publishing a separate notice declaring that commencing on October 18, there has been a general disruption of postal services to the Library of Congress. The Library continues to experience disruptions in its postal service. The Register shall publish another notice when she determines that the disruption of services has ceased.

The Office has already received one request to assign a date of receipt for a copyright registration application that was delayed due to the disruption of postal services, and it is anticipated that additional requests will be made. In order expeditiously to permit the application of section 709 to materials submitted during the current period of disruption of services, the Office is announcing interim regulations to govern such requests and the Office's determination of the date of receipt.

Assigning a date of receipt based on the date materials would have been received but for the disruption is important in a number of contexts. The effective date of registration of a copyright is the date the application, fees and deposit are received by the Copyright Office. 17 U.S.C. 410(d). That date can affect the copyright owner's rights and remedies, such as eligibility for statutory damages and attorney's fees. See 17 U.S.C. 412 (statutory damages and attorney's fees available only for works with effective date of registration prior to commencement of infringement or, for published works, within three months of first publication of the work). The date of recordation of a document can be crucial in determining priorities among conflicting transfers. See 17 U.S.C. 205, 37 CFR 201.9(c) (date of recordation is the date when all elements required for recordation, including the prescribed fee, have been received in the Copyright

Office). The date of recordation of a notice of termination of a grant of a transfer or license can be crucial in determining whether the termination is effective. See 17 U.S.C. 304(c)(4)(b) (notice of termination must be recorded in the Copyright Office before the effective date of termination), 37 CFR 201.10(f)(3) (date of recordation of notice of termination is the date when all of the elements required for recordation have been received in the Copyright Office).

Under section 201.8(a) of the interim regulations, when the Register determines that there has been a general disruption or suspension of postal or other transportation or communications services that has delayed the receipt by the Copyright Office of deposits, applications, fees, or any other materials, the Register shall publish an announcement to that effect. When the state of disruption or suspension of such services has ceased, the Register shall publish an announcement to that effect.

Section 201.8(b) provides that persons who have submitted material to the Office, the receipt of which has been delayed due to the suspension or disruption of services, may request that the Register assign, as the date of receipt of the material, the date on which the Register determines the material would have been received but for the disruption or suspension of services. Section 201.8(f) states where such requests should be sent.

Section 201.8(c) sets forth when a request may be submitted. Requests pertaining to applications for copyright registration must be made no later than one year after the claimant has received a certificate of registration. Such requests ordinarily will not be permitted until after the claimant has received a certificate of registration. Exceptions are made for cases in which the Office is communicating with a claimant about the application for other reasons, or other cases in which the Register finds there is good cause to consider a request prior to issuance of the certificate. In general, permitting the submission of requests prior to issuance of the certificate would impose unacceptable burdens on the Office due to difficulties in locating the particular pending applications to which the requests pertain. But when the Office has already communicated with the claimant in connection with an application, and the claimant is responding to the communication from the Office, the claimant may submit the request because there should be no difficulty in locating the application which is the subject of the communication.

Requests relating to transfers of copyright or other documents submitted for recordation must also be made no later than one year after the person seeking recordation has received a certificate of recordation, but there is no requirement to wait until after the certificate has issued. In fact, because it is easier for the Documents Recordation Section of the Cataloging Division to correct the date of recordation prior to recording the document, persons seeking adjustment of the date of receipt of a document submitted for recordation are encouraged to submit requests as soon as possible.

Requests pertaining to any other material submitted to the Copyright Office must be made no later than one year after the date the material is received by the Office.

Section 201.8(d) provides that when a certificate of registration or a certificate of recordation has already been issued, the original certificate must be returned to the Office along with the request. If the request is granted, the Office will issue a new certificate with the revised effective date of registration or date of recordation. If the request is not granted, the original certificate will be returned.

Section 201.8(e) provides that as evidence that the material would have been received on that date, the person making the request must submit a receipt from the United States Postal Service or a delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, indicating how and when the material was received by the Postal Service or delivery service, and indicating sufficient information to determine when the Postal Service or delivery service would have delivered the material to the Copyright Office but for the disruption or suspension of services. The Office will also accept other documentary evidence that it considers equivalent to such receipts, and it will accept sworn statements from persons with personal knowledge of the facts relating to the attempt to deliver the material to the Office.

Section 201.8(f) provides for certain presumptions as to when material deposited with the United States Postal Service or a delivery service would have been received but for the disruption or suspension of services.

#### **Effective Date**

Because of the unanticipated nature of the recent disruption in services and the necessity of providing a mechanism that will immediately permit the Copyright Office to adjust the date of receipt of materials in appropriate circumstances due to that disruption, the Register finds

that there is good cause for the interim regulations to take effect immediately.

#### **Request for Comments**

The Office solicits comments from the public on these interim regulations. Comments are due 30 days from the date these regulations are published. The Office will consider these comments in preparing final regulations.

The Office also solicits comments concerning a related issue. The Office was closed for business from October 18 through October 24, 2001, because of concerns about possible anthrax contamination in the Library of Congress. During this period, the Office could not receive any applications, fees, deposits or other materials, whether by mail, courier or any other means of delivery. Because the Office's inability to receive materials during this time period was due to the closure of the Library of Congress, and not due to a general disruption or suspension of postal or other transportation or communications services, it does not appear that section 709 provides any authority for the Register to assign a date of receipt during that period for any materials that would have been received by the Office on a day during that period but for the closure of the Library. Thus, a person who attempted to deliver an application for copyright registration to the Office in person on October 22 would not be able to seek an effective date of registration of October 22, because the Office was not open on that date.

Section 410(c) of 17 U.S.C. provides that "[t]he effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office." (Emphasis added). The only exception to the requirement that the effective date of registration be the date of actual receipt is set forth in section 709, which does not address the unanticipated closure of the Office.

Moreover, a person who deposited an application addressed to the Office with an overnight delivery service on October 17, with an expected date of receipt in the Office of October 18, would not be able to seek an effective date of registration on October 18 because section 709 only permits the Register to assign as a date of receipt the date on which the material "would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other

transportation or communications services." (Emphasis added.) In this case, the reason the Office did not receive the application on October 18 was not a general disruption or suspension of postal or other transportation or communications services; it was the closure of the building that houses the Office. Thus, the earliest date of receipt that the Office could assign to the application would be October 25, the next date on which the Office was open.

The Office would like to be able to offer relief to persons who were unable to deliver materials to the Office due to unanticipated closure of the Office during normal business hours, but we are aware of no authority that permits us to grant such relief. We welcome any comments providing citations to and analysis of authority that would permit the Office to issue regulations governing such a situation notwithstanding the express language of 17 U.S.C. 410(c).

#### List of Subjects in 37 CFR Part 201

Communications, Copyright, Postal service.

#### Interim Regulations

In consideration of the foregoing, the Register of Copyrights amends part 201 of 37 CFR on an interim basis as follows:

#### PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

**Authority:** 17 U.S.C. 702.

2. Section 201.8 is added to read as follows:

##### § 201.8 Disruption of postal or other transportation or communication services.

(a) For purposes of 17 U.S.C. 709, when the Register has determined that there is or has been a general disruption or suspension of postal or other transportation or communications services that has delayed the receipt by the Copyright Office of deposits, applications, fees, or any other materials, the Register shall publish an announcement of that determination, stating the date on which the disruption or suspension commenced. The announcement may, if appropriate, limit the means of delivery that are subject to relief pursuant to section 709. Following the cessation of the disruption or suspension of services, the Register shall publish an announcement stating the date on which the disruption or suspension has terminated.

(b) At the request of any person who provides satisfactory evidence that he or she has attempted to deliver a deposit,

application, fee or other material to the Copyright Office but that receipt by the Copyright Office was delayed due to a general disruption or suspension of postal or other transportation or communications services, the Register shall assign, as the date of receipt of the deposit, application, fee or other material, the date on which the Register determines the material would have been received but for the disruption or suspension of services, if the deposit, application, fee or other material was actually received in the Copyright Office within one month after the disruption or suspension of services has terminated.

(c) *Timing.* The request shall be made:

(1) With respect to an application for copyright registration, no earlier than the date on which the claimant receives the certificate of registration and no later than one year after the date on which the claimant receives the certificate of registration; provided, however, that a request may be made prior to receipt of a certificate of registration—

(i) If the Copyright Office has communicated with the claimant relating to the application and the claimant makes the request as part of a response to the communication from the Office; or

(ii) If the Register determines that good cause exists to entertain a request prior to the issuance of a certificate of registration;

(2) With respect to a transfer of copyright ownership or other document submitted for recordation pursuant to 17 U.S.C. 205, no later than one year after the date on which the person submitting the transfer or document receives the certificate of recordation;

(3) With respect to any other material, no later than one year after the date on which the material was actually received in the Copyright Office.

(d) In cases in which a certificate or registration or a certificate of recordation has already been issued, the original certificate must be returned to the Copyright Office along with the request.

(e) For purposes of paragraph (b) of this section, satisfactory evidence shall consist of:

(1) A receipt from the United States Postal Service indicating the date on which the United States Postal Service received material for delivery to the Copyright Office by means of first class mail, Priority Mail or Express Mail;

(2) A receipt from a delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, indicating the date on which the delivery service received material for delivery to the Copyright Office and

(i) The date on which delivery was to be made to the Copyright Office, or

(ii) The period of time (e.g., overnight, or 2 days) from receipt by the delivery service to the date on which delivery was to be made to the Copyright Office;

(3) Other documentary evidence which the Register deems equivalent to the evidence set forth in paragraphs (e)(1) and (2) of this section; or

(4) A sworn statement from a person with actual knowledge of the facts relating to the attempt to deliver the material to the Copyright Office, setting forth with particularity facts which satisfy the Register that in the absence of the general disruption or suspension of postal or other transportation or communications services, the material would have been received by the Copyright Office by a particular date.

(f) For purposes of paragraph (b) of this section, the Register shall presume that but for the general disruption or suspension of postal or other transportation or communications services,

(i) Materials deposited with the United States Postal Service for delivery by means of first class mail would have been received in the Copyright Office seven days after deposit with the United States Postal Service;

(ii) Materials deposited with the United States Postal Service for delivery by means of Priority mail would have been received in the Copyright Office three days after deposit with the United States Postal Service;

(iii) Materials deposited with the United States Postal Service for delivery by means of Express mail would have been received in the Copyright Office one day after deposit with the United States Postal Service;

(iv) Materials deposited with a delivery service such as, or comparable to, United Parcel Service, Federal Express, or Airborne Express, would have been received in the Copyright Office on the date indicated on the receipt from the delivery service.

(g) Requests pursuant to paragraph (b) of this section shall be addressed to: Chief, Copyright Office Receiving & Processing Division, Copyright Office, and if delivered by hand they should be brought to the Copyright Office Public Information Office, Library of Congress, James Madison Memorial Building, Room 401, First and Independence Avenue, SE., Washington, DC. If mailed, the request should be addressed to Chief, Receiving & Processing Division, P.O. Box 71380, Washington, DC 20024-1380.

Dated: November 26, 2001.

**Marybeth Peters,**

*Register of Copyrights.*

Approved by:

**James H. Billington,**

*Librarian of Congress.*

[FR Doc. 01-30013 Filed 12-3-01; 8:45 am]

BILLING CODE 1410-30-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[HIO62-OPP; FRL-7111-5]

### Clean Air Act Full Approval of the Operating Permits Program; State of Hawaii

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to fully approve the State of Hawaii's operating permits program. Hawaii's program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On December 1, 1994 EPA granted interim approval to the Hawaii operating permits program. Hawaii revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on October 15, 2001. EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the State of Hawaii's operating permits program.

**EFFECTIVE DATE:** This rule is effective on November 30, 2001.

**ADDRESSES:** Copies of the Hawaii submittal and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California, and Oahu: Clean Air Branch, Department of Health, 919 Ala Moana Blvd., Room 203, Honolulu.

**FOR FURTHER INFORMATION CONTACT:** Robert Baker, EPA Region IX, at (415) 972-3979 ([Baker.Robert@epa.gov](mailto:Baker.Robert@epa.gov)).

**SUPPLEMENTARY INFORMATION:** This section contains additional information about our final rulemaking, organized as follows:

I. Background on the Hawaii operating permits program.

II. Comments received by EPA on our proposed rulemaking and EPA's responses.

III. EPA's final action.

IV. Effective date of EPA's full approval of the Hawaii operating permits program.

### I. Background on the [District/State] Operating Permits Program

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. The State of Hawaii's operating permits program was submitted in response to this directive. Because the State's program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on December 1, 1994 (59 FR 61549). The interim approval notice described the conditions that had to be met in order for the State program to receive full approval.

After Hawaii revised its program to address the conditions of the interim approval, EPA promulgated a proposal to approve Hawaii's Title V operating permits program on October 15, 2001 (66 FR 52368).

### II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the State of Hawaii's operating permits program.

### III. EPA's Final Action

EPA is granting full approval to the operating permits program submitted by the State of Hawaii based on the revisions submitted on September 21, 2001, which satisfactorily address the program deficiencies identified in EPA's July 26, 1994 interim approval (see 59 FR 37957). In addition, the State has made other changes to its operating permit program that are unrelated to the changes made to correct interim approval deficiencies. EPA is not taking any action on these additional program changes in this notice. EPA will evaluate the additional program changes and will take appropriate action at a later date.

### IV. Effective Date of EPA's Full Approval of the Hawaii Operating Permits Program

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, section 553(d)

provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except— \* \* \* (3) as otherwise provided by the agency for good cause found and published with the rule. Good cause may be supported by an agency determination that a delay in the effective date is "impracticable, unnecessary, or contrary to the public interest." EPA believes that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. The interim approved program expires on December 1, 2001. In the absence of this approved program taking effect on November 30, the federal program would automatically take effect and would remain in place until the effective date of the fully-approved state/district program. EPA believes it is in the public interest for sources, the public and the State to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because the State of Hawaii has been administering the Title V permit program for seven years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially but did not fully meet the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state approved program and the federal program. Finally, sources are already complying with all of the newly approved requirements as a matter of state law. Thus, there is little or no additional burden with complying with these requirements under the federally approved program.

### Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not