■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T07–0078 to read as follows:

§ 165.T07–0078 Safety Zone; AICW Closure Safety Zone for Ben Sawyer Bridge Replacement Project, Sullivan's Island, SC.

(a) *Location.* The Coast Guard is establishing a temporary safety zone for the Ben Sawyer Bridge span replacement project at the Ben Sawyer Bridge located at Atlantic Intracoastal Waterway Mile 462.2 (32°46.22 N, 079°50.31 W (NAD 1983)). The safety zone will encompass the entire waterway from 180 yards northwest of the Ben Sawyer Bridge to 220 yards southwest of the Bridge.

(b) *Definition.* The following definition applies to this section:

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Charleston, South Carolina.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may anchor, moor, or transit the safety zone without permission of the Captain of the Port Charleston, South Carolina, or his designated representative. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction.

(d) *Effective Period.* This rule will be enforced from 7 a.m. February 3, 2010 through 11:59 p.m. February 13, 2010.

M.F. McAllister,

Captain, U.S. Coast Guard, Captain of the Port Charleston South Carolina.

[FR Doc. 2010–2215 Filed 2–2–10; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 382

[Docket No. 2006–1 CRB DSTRA]

Determination of Rates and Terms for Preexisting Subscription Services and Satellite Digital Audio Radio Services

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges are publishing final regulations governing the rates for the preexisting satellite digital audio radio services' use of the ephemeral recordings statutory license under the Copyright Act for the period 2007 through 2012.

DATES: *Effective Date:* March 5, 2010.

Applicability Dates: The regulations apply to the license period January 1, 2007, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707–7658 or by e-mail at *crb@loc.gov*.

SUPPLEMENTARY INFORMATION: On January 24, 2008, the Copyright Royalty Judges ("Judges") published in the **Federal Register** their determination of royalty rates and terms under the statutory license under Sections 112(e) and 114 of the Copyright Act, title 17 of the United States Code, for the period 2007 through 2012 for preexisting satellite digital audio radio services ("SDARS"). 73 FR 4080. In *SoundExchange, Inc.* v. *Librarian of Congress,* 571 F.3d 1220, 1226 (D.C. Cir. 2009), the U.S. Court of Appeals for the District of Columbia Circuit affirmed the Judges' determination in all but one respect, remanding to the Judges the single matter of specifying a royalty for the use of the ephemeral recordings statutory license under Section 112(e) of the Copyright Act. By order dated October 22, 2009, the Judges established a period from November 2, 2009, through December 2, 2009, for SoundExchange, Inc. and Sirius XM Radio Inc. (collectively, the "Parties") to negotiate and submit a settlement of the ephemeral royalty rate issue that was the subject of the remand.

On November 24, 2009, the Parties submitted their settlement of the remanded issue. Subsequently, the Judges published for comment the proposed change in the rule necessary to implement that settlement pursuant to the order of remand from the U.S. Court of Appeals for the District of Columbia Circuit. 74 FR 66601 (December 16, 2009). Comments were due to be filed by no later than January 15, 2010. Having received no comments or objections to the proposed change, the Judges are now adopting as final the proposed change as published on December 16, 2009. *See* 74 FR 66601.

As noted in the December 16 publication, pursuant to the Parties' settlement, the change to the regulations at 37 CFR 382.12 adopted today do not disturb the combined Section 112(e)/114 royalty previously set by the Judges but do specify that five percent of the combined royalty will be considered the Section 112(e) royalty, while the balance of the royalty is attributable to the Section 114 license.

List of Subjects in 37 CFR Part 382

Copyright, Digital audio transmissions, Performance right, Sound recordings.

Final Regulations

■ For the reasons set forth in the preamble, the Copyright Royalty Judges amend part 382 of title 37 of the Code of Federal Regulations as follows:

PART 382—RATES AND TERMS FOR DIGITAL TRANSMISSIONS OF SOUND RECORDINGS AND THE REPRODUCTION OF EPHEMERAL RECORDINGS BY PREEXISTING SUBSCRIPTION SERVICES AND PREEXISTING SATELLITE DIGITAL AUDIO RADIO SERVICES

■ 1. The authority citation for part 382 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114, and 801(b)(1).

■ 2. Section 382.12 is revised to read as follows:

§ 382.12 Royalty fees for the public performance of sound recordings and the making of ephemeral recordings.

(a) *In general.* The monthly royalty fee to be paid by a Licensee for the public performance of sound recordings pursuant to 17 U.S.C. 114(d)(2) and the making of any number of ephemeral phonorecords to facilitate such performances pursuant to 17 U.S.C. 112(e) shall be the percentage of monthly Gross Revenues resulting from Residential services in the United States as follows: for 2007 and 2008, 6.0%; for 2009, 6.5%; for 2010, 7.0%; for 2011, 7.5%; and for 2012, 8.0%.

(b) *Ephemeral recordings.* The royalty payable under 17 U.S.C. 112(e) for the making of phonorecords used by the Licensee solely to facilitate transmissions during the Term for which it pays royalties as and when

provided in this subpart shall be included within, and constitute 5% of, such royalty payments.

Dated: January 28, 2010.

James Scott Sledge,

Chief U.S. Copyright Royalty Judge.

[FR Doc. 2010–2219 Filed 2–2–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0771; FRL–9108–7]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an error in the amendatory instruction in a November 20, 2009 final rule pertaining to the Indiana State Implementation Plan (SIP) revision updating the definition of "References to the Code of Federal Regulations," to refer to the 2008 edition. The amendatory instruction in that rulemaking conflicts with the actual amendment language. EPA, therefore, is correcting the erroneous amendatory instructions.

DATES: *Effective Date:* This final rule is effective on February 3, 2010.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA published a final rule document on November 20, 2009, (74 FR 60197) approving Indiana's request to revise the Indiana SIP by updating the definition of "References to the Code of Federal Regulations," to refer to the 2008 edition. In this approval EPA erroneously identified the paragraph being added to 40 CFR 52.770. The amendatory instruction in that rulemaking conflicts with the actual amendment language. The amendatory language says to add paragraph (c)(192), but the actual language being added is for paragraph (c)(191). Therefore, the amendatory instruction should have referred to paragraph (c)(191).

Correction

In the final rule published in the **Federal Register** on November 20, 2009, (74 FR 60197), on page 60199, second column, in amendatory instruction 2, in the second line, "* * * adding paragraph (c)(192) * * *" should have read: "* * * adding paragraph (c)(191) * * *".

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use", 66 FR 28355 (May 22, 2001). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section, above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of *February 3, 2010.* EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This correction to 40 CFR 52 for Indiana is not a "major rule" as defined by 5 U.S.C. 804(2).