

counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

#### Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the Pennsylvania submittal, which is the subject of this rule, is based upon counterpart Federal regulations for

which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

#### List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 29, 2008.

**Thomas D. Shope,**

*Regional Director, Appalachian Region.*

■ For the reasons set out in the preamble, 30 CFR part 938 is amended as set forth below:

#### PART 938—PENNSYLVANIA

■ 1. The authority citation for part 938 continues to read as follows:

**Authority:** 30 U.S.C. 1201 et seq.

■ 2. Section 938.15 is amended by adding a new entry to the table in chronological order by “Date of final publication” to read as follows:

#### § 938.15 Approval of Pennsylvania regulatory program amendments.

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* June 8, 2006	* December 1, 2008	* 25 Pa. Code 210.11, 87.1, 88.1, and 89.5 added definition for mine opening blasting; 87.124(b) correction of reference error; 87.126(b)(2)(ii) phrase deletion; 87.127(b), 87.127(e), 87.127(e)(1), 87.127(f)(1); 87.129(4); 88.135(a), 88.135(b), 88.135(f)(1), 88.135(h), 88.135(i); 88.493(7)(i); 89.62 (adding new language); 87.127(l) and 88.135(l) (deleted in their entirety).

[FR Doc. E8-28445 Filed 11-28-08; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 706

#### Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) of the Navy has determined that USS LOUISVILLE (SSN 724) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** This rule is effective December 1, 2008 and is applicable beginning 19 November 2008.

#### FOR FURTHER INFORMATION CONTACT:

Commander M. Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374-5066, telephone number: 202-685-5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS LOUISVILLE (SSN 724) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 21(a) pertaining to the location of the masthead lights over the fore and aft centerline of the ship. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment

for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

#### List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

#### PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for 32 CFR Part 706 continues to read as follows:

**Authority:** 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ A. In Table Two by adding, in numerical order, the following entry for USS LOUISVILLE (SSN 724):

#### § 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

\* \* \* \* \*

TABLE TWO

Vessel	Number	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
USS LOUISVILLE .....	SSN 724.	0.41							

\* \* \* \* \*

Approved: November 19, 2008.

**M. Robb Hyde,**

*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).*

[FR Doc. E8-28414 Filed 11-28-08; 8:45 am]

BILLING CODE 3810-FF-P

## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 381

[Docket No. 2008-6 CRB NCBRA]

#### Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Royalty Judges announce a cost of living adjustment ("COLA") of 3.7% in the royalty rates that colleges, universities, and other nonprofit educational institutions that are not affiliated with National Public Radio pay for the use of published nondramatic musical compositions in the ASCAP, BMI and SESAC repertoires. The COLA is based on the change in the Consumer Price Index from October 2007 to October 2008.

**DATES:** *Effective Date:* January 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** LaKeshia Brent, CRB Program Specialist. Telephone: (202) 707-7658.

**SUPPLEMENTARY INFORMATION:** Section 118 of the Copyright Act<sup>1</sup> creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and

sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR parts 253 and 381.

Final regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works for the license period beginning January 1, 2008, and ending December 31, 2012, were published in the **Federal Register** on November 30, 2007.<sup>2</sup> Pursuant to these regulations, on or before December 1 of each year the Judges shall publish a notice of the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items ("CPI-U")) during the period from the most recent index published prior to the previous notice, to the most recent index published prior to December 1 of that year.<sup>3</sup> The regulations also require that the Judges publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertoires by public broadcasting entities licensed to colleges and universities, reflecting the change in the CPI-U.<sup>4</sup> Accordingly, the Judges are hereby announcing the change in the CPI-U and applying the annual COLA to the rates set out in 37 CFR 381.5(c).

The change in the cost of living as determined by the CPI-U during the period from the most recent index published before December 1, 2008, to the most recent index published before

December 1, 2007, is 3.7%.<sup>5</sup> Rounding to the nearest dollar,<sup>6</sup> the royalty rates for the performance of published nondramatic musical compositions in the repertoires of ASCAP, BMI, and SESAC are \$298, \$298, and \$120, respectively.

#### List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

#### Final Regulations

■ For the reasons set forth in the preamble, Part 381 of title 37 of the Code of Federal Regulations is amended to read as follows:

#### PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 381 continues to read as follows:

**Authority:** 17 U.S.C. 118, 801(b)(1), and 803

■ 2. Section 381.5 is amended by revising paragraphs (c)(1) through (c)(3) as follows:

#### § 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

\* \* \* \* \*

(c) \* \* \*

(1) For all such compositions in the repertoire of ASCAP, \$298 annually.

(2) For all such compositions in the repertoire of BMI, \$298 annually.

<sup>5</sup> The most recent CPI-U figures are published in October of each year and use the period 1982-84 to establish a reference base of 100. The index for October 2008 was 216.573, while the figure for October 2007 was 208.936.

<sup>6</sup> See 37 CFR 381.10(b) (adjusted royalty rates shall be "fixed at the nearest dollar").

<sup>2</sup> 72 FR 67646.

<sup>3</sup> 37 CFR 381.10(a).

<sup>4</sup> 37 CFR 381.10(b) (requiring publication of a revised schedule of rates for 37 CFR 381.5).

<sup>1</sup> 17 U.S.C. 118.