

statutory authority, and to remove outdated provisions.

Need for Correction

The final passport rule published on November 19, 2007 erroneously labels two sentences in the rule contained in 22 CFR 51.21(b) and (c) as a "Note." This correction deletes the labels "Note" and corrects the numbering of the two provisions.

Correction

■ The final passport rule published on November 19, 2007 (72 FR 64930) is corrected as follows:

■ 1. On page 64933, 22 CFR part 51.21 is corrected by making the following correcting amendments:

PART 51—PASSPORTS

Section 51.21(b) and (c) is revised to read as follows:

§ 51.21 Execution of passport application.

* * * * *

(b) *Application by mail—persons in the United States.* (1) A person in the United States who previously has been issued a passport valid for 10 years in his or her own name may apply for a new passport by filling out, signing and mailing an application on the form prescribed by the Department if:

(i) The most recently issued previous passport was issued when the applicant was 16 years of age or older;

(ii) The application is made not more than 15 years following the issue date of the previous passport, except as provided in paragraph (e) of this section; and

(iii) The most recently issued previous passport of the same type is submitted with the new application.

(2) The applicant must also provide photographs as prescribed by the Department and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

(c) *Application by mail—persons abroad.* (1) A person in a foreign country where the Department has authorized a post to receive passport applications by mail who previously has been issued a passport valid for 10 years in his or her own name may apply for a new passport in that country by filling out, signing and mailing an application on the form prescribed by the Department if:

(i) The most recently issued previous passport was issued when the applicant was 16 years of age or older;

(ii) The application is made not more than 15 years following the issue date of the previous passport, except as provided in paragraph (e) of this section; and

(iii) The most recently issued previous passport of the same type is submitted with the new application.

(2) The applicant must also provide photographs as prescribed by the Department and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

* * * * *

Dated: January 18, 2008.

Ann Barrett,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E8-1205 Filed 1-23-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG-2007-0169]

RIN 1625-AA00

Safety Zone: Trent River Between New Bern and James City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish a safety zone on the waters of the Trent River between New Bern and James City, North Carolina in the vicinity of the U.S. Route 70 Highway Swing Bridge. This safety zone is necessary to provide for the safety of life on navigable waters during the movement of bridge construction equipment from the southern end of the bridge construction project to the northern end of the project.

DATES: This rule is effective from 10 a.m. on January 8, 2008 through 2 p.m. on January 24, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2007-0169 and are available for inspection or copying at Sector North Carolina 2301 East Fort Macon Road Atlantic Beach, NC 28512 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Commander Jennifer Williams, Prevention Department Head, United States Coast Guard Sector North Carolina at (252) 247-4570 or (252) 247-457046.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The publishing of an NPRM would be impracticable and contrary to public interest since immediate action is needed to protect the maritime public from the hazards associated with this maintenance project. The necessary information to determine whether the construction poses a threat to persons and vessels was not provided with sufficient time to publish an NPRM. For the safety concerns noted, it is in the public interest to have this regulation in effect during the construction.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the public's safety.

Background and Purpose

From 10 a.m. to 2 p.m. on each Tuesday, Wednesday, and Thursday from January 8, 2008 through January 24, 2008 Balfour Beatty Infrastructure Inc. will relocate construction equipment in the vicinity of the U.S. Route 70 Highway Swing Bridge from James City, NC to New Bern, NC. To provide for the safety of the public, the Coast Guard will temporarily restrict access to this section of the Trent River during equipment relocation.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone that will extend from the Norfolk Southern Railroad Bridge and Union Point, New Bern, NC to the U.S. Route 17 Highway Bridge at James City, NC, latitude 35°05.8' N, longitude 77°02.2' W. This zone will require mariners to avoid entry into the area. Entry into the zone will not be permitted except as specifically authorized by the Captain of the Port or his designated representative.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because:

(i) The safety zone will be in effect for a limited duration of time and (ii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this temporary final rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities. Although the regulated area will apply to waters of the Trent River, the zone will not have a significant impact on small entities because the zone will only be in place for a limited duration of time and maritime advisories will be issued in advance to allow the public to adjust their plans accordingly.

Assistance for Small Entities

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this temporary final rule under that

Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This temporary final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, or 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of

energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” will be available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

■ For the reasons set out 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A temporary § 165.T05–901 is added to read as follows:

§ 165.T05–901 Safety Zone: Trent River between New Bern and James City, North Carolina.

(a) *Regulated area:* The following area is a safety zone: waters of the Trent River, from the Norfolk Southern Railroad Bridge and Union Point New Bern, NC to the U.S. Route 17 Highway Bridge at James City, NC, latitude 35°05.8' N, longitude 77°02.2' W. All coordinates reference Datum NAD 1983.

(b) *Definitions:* *Captain of the Port Representative* any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations:* (1) In accordance with the general regulations in section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or a Captain of the Port Representative. All vessel movement within the safety zone is prohibited except as specifically authorized by the Captain of the Port or a Captain of the Port Representative. The general requirements of section 165.23 also apply to this regulation.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or his Representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (252) 247–4570 or (252) 247–4546, or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(e) *Enforcement period:* This rule will be enforced from 10 a.m. to 2 p.m. each Tuesday, Wednesday, and Thursday from January 8, 2008 through January 24, 2008.

Dated: December 14, 2007.

G.D. Case,

Commander, U.S. Coast Guard, Acting Captain of the Port North Carolina.

[FR Doc. E8–1133 Filed 1–23–08; 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 and order.

SUMMARY: The Copyright Royalty Judges are announcing their final determination of the rates and terms for the digital transmission of sound recordings and the reproduction of ephemeral recordings by preexisting satellite digital audio radio services for the period beginning on January 1, 2007, and ending on December 31, 2012.

DATES: *Effective Date:* January 24, 2008.

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

ADDRESSES: The final determination also is posted on the Copyright Royalty Board Web site at <http://www.loc.gov/crb/proceedings/2006-1/sdars-final-rates-terms.pdf>.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor. Telephone: (202) 707–7658. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

I. Introduction

This is a rate determination proceeding convened under 17 U.S.C. 803(b) and 37 CFR part 351. A Notice announcing commencement of proceeding with request for Petitions to Participate in such proceeding to determine the rates and terms of royalty payments under Sections 114 and 112 of the Copyright Act for the activities of preexisting subscription services (“PSS”) and preexisting satellite digital audio radio services (“SDARS”) was published in the **Federal Register** on January 9, 2006.¹ The rates and terms set in this proceeding apply to the period of January 1, 2008, through December 31, 2012 for PSS, and January 1, 2007, through December 31, 2012 for SDARS. 17 U.S.C. 804(b)(3)(B). The PSS royalty rates are provided in a separate order. For the SDARS, the instant order provides for a beginning rate of 6% of gross revenues, with increases during

the term of the period. See *infra* at Section IV.C.3.d.

II. The Proceeding

The following entities filed Petitions in response to the January 9, 2006 request for Petitions to Participate: SoundExchange, Music Choice, Muzak LLC, XM, Sirius, Royalty Logic, Inc. (“RLI”), and THP Capstar Acquisition d/b/a DMX Music (“DMX”). The Copyright Royalty Judges (“Judges”) dismissed Muzak as a party on January 10, 2007.² On August 21, 2006, the Judges referred a novel material question of substantive law regarding the universe of preexisting subscription services under 17 U.S.C. 114(j)(11)³ to the Register of Copyrights.⁴ On October 20, 2006, the Register transmitted a Memorandum Opinion to the Board that addressed the novel question of law.⁵ The Register concluded that

for purposes of participating in a rate setting proceeding, the term “preexisting subscription service” is best interpreted as meaning the business entity which operates under the statutory license. A determination of whether DMX is the same service that was identified by the legislative history in 1998 and has operated continuously since that time requires a factual analysis that is beyond the scope of the Register’s authority for questions presented under 17 U.S.C. 802(f)(1)(B).

² Order Granting SoundExchange’s Motion to Dismiss Muzak LLC, Docket No. 2006–1 CRB DSTRA.

³ Section 114(j)(11) of the Copyright Act defines the term “preexisting subscription service” to mean “a service that performs sound recordings by means of noninteractive audio-only subscription digital audio transmissions, which was in existence and was making such transmissions to the public for a fee on or before July 31, 1998, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.” 17 U.S.C. 114(j)(11).

⁴ Order Granting in Part SoundExchange’s Motion Requesting Referral of a Novel Question of Substantive Law and Denying Motion by THP Capstar Acquisition Corp. D/B/A DMX Music Requesting Proposed Briefing Schedule, Docket No. 2006–1 CRB DSTRA. In its motion SoundExchange contended that Sirius and DMX are not eligible for a statutory license for a “preexisting subscription service” because they are not the entities that were in existence and making digital audio transmissions on or before July 31, 1998, a requirement under Section 114 of the Copyright Act. See 71 FR at 64640.

⁵ The Register’s Memorandum Opinion was published in the **Federal Register** on November 3, 2006. 71 FR 64639.

¹ 71 FR 1455, Docket No. 2006–1 CRB DSTRA.