

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 proposed 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, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. This rule fits within paragraph (32)(e) because it pertains to operation regulations for bridges. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.272 to read as follows:

§ 117.272 Boot Key Harbor.

The draw of the Boot Key Harbor drawbridge, mile 0.13, between Marathon and Boot Key, shall open on the hour from 7 a.m. to 7 p.m. At all other times, the bridge will open following a 10-minute notification to the bridge tender. The draw shall open on demand and as soon as practicable for the passage of tugs with tows, public vessels of the United States and vessels whereby a delay would endanger life or property.

Dated: July 12, 2005.

D.B. Peterman,

*RADM, U.S. Coast Guard, Commander,
Seventh Coast Guard District.*

[FR Doc. 05–14247 Filed 7–19–05; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 256

[Docket No. 2005–2 CARP CRA]

Adjustment of Cable Statutory License Royalty Rates

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is submitting for public comment a settlement proposal for the adjustment of certain royalty rates for use of the cable statutory license.

DATES: Comments and Notices of Intent to Participate are due by August 19, 2005.

ADDRESSES: If hand delivered by a private party, an original and five copies of a comment and a Notice of Intent to Participate should be brought to Room LM–401 of the James Madison Memorial Building between 8:30 a.m. and 5 p.m.

and the envelope should be addressed as follows: Office of the General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, S.E., Washington, DC 20559–6000. If delivered by a commercial courier, an original and five copies of a comment and a Notice of Intent to Participate must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Streets, N.E., between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel/CARP, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington, DC. If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment and a Notice of Intent to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Comments and Notices of Intent to Participate may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

FOR FURTHER INFORMATION CONTACT:

Tanya M. Sandros, Associate General Counsel, or Gina Giuffreda, Attorney–Advisor, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax (202) 252–3423.

SUPPLEMENTARY INFORMATION:

I. Background

Section 111 of the Copyright Act, 17 U.S.C., creates a statutory license for cable systems that retransmit to their subscribers over–the–air broadcast signals. Royalty fees for this license are calculated as percentages of a cable system’s gross receipts received from subscribers for receipt of broadcast signals. A cable system’s individual gross receipts determine the applicable percentages. These percentages, and the gross receipts limitations, are published in 37 CFR part 256 and are subject to adjustment at five–year intervals. 17 U.S.C. 801(b)(2)(A) & (D).¹ This is a window year for such an adjustment.

A cable rate adjustment is initiated by the filing of a petition from a party with a significant interest in the rates. The Library received two such petitions. The

¹ Unless otherwise noted, all references are to chapter 8 of title 17 of the United States Code as in effect prior to May 31, 2005, the effective date of the Copyright Royalty and Distribution Reform Act of 2004.

first was filed on January 10, 2005, on behalf of the Office of the Commissioner of Baseball, the National Football League, the National Basketball Association, the Women's National Basketball Association, the National Hockey League, and the National Collegiate Athletic Association (collectively, the "Joins Sports Claimants") and the Motion Picture Association of America, Inc., its member companies and other producers and/or distributors of syndicated television programs (collectively, the "Program Suppliers"). This petition requested that the Copyright Office commence a proceeding to adjust the cable compulsory license royalty rates set forth in 37 CFR 256.2. On April 29, 2005, the Office received a second petition from the National Cable & Telecommunications Association (hereinafter, "NCTA"), echoing the first petitioners' request for a rate adjustment proceeding to adjust the rates in § 256.2. Specifically, NCTA asked that the rate adjustment proceeding "adjust upward the gross receipts limitations currently specified in 37 CFR 256.2 to reflect national monetary inflation and to adjust downward the rates established in [section] 111(d)(1)(B)," and that it reconsider and "adjust downward the rates currently specified in 37 CFR 256.2(c) and (d) (the 3.75% rate and the 'syndex surcharge')."

In response to the first petition and before receipt of the second one, the Library published a **Federal Register** notice seeking comment on the Joint Sports/Program Suppliers' petition and directing interested parties to file a Notice of Intent to Participate in a Copyright Arbitration Royalty Panel ("CARP") proceeding. 70 FR 16306 (March 30, 2005). The notice also designated a 30-day period to enable the parties to negotiate a new rate schedule. 37 CFR 251.63(a).

In accordance with the March 30 notice, the Office received on June 30, 2005, one agreement, submitted jointly by the NCTA, the Joint Sports Claimants, the Program Suppliers, the Canadian Claimants, the Public Television Claimants, the National Association of Broadcasters, Broadcast Music, Inc., the American Society of Composers, Authors & Publishers, SESAC, Inc., and the Devotional Claimants ("Settling Parties"), representing all of the parties who filed notices of intent to participate in this proceeding. The agreement proposes amending the basic royalty rates and the gross receipts limitations, the regulations governing the filing of the statements of account to reflect these changes, and proposes that these

changes become effective beginning with the second semiannual accounting period of 2005. The agreement also notes that the syndex rates are not being adjusted for the new license period.

However, the Settling Parties have yet to reach an agreement on whether or how to adjust the 3.75 rate set forth in § 256.2(c) of title 37 of the CFR. Thus, the Settling Parties continue to consider these rates and will notify the Office, on or before August 10, 2005, as to whether they will seek adjustments to the 3.75 rate.

In the meantime, the Settling Parties have asked that the Librarian adopt the agreed-upon rates in accordance with the regulations governing a rate adjustment proceeding. The relevant rule provides that:

the Librarian may, upon the request of the parties, submit the agreed upon rate to the public in a notice-and-comment proceeding. The Librarian may adopt the rate embodied in the proposed settlement without convening an arbitration panel, provided that no opposing comment is received by the Librarian from a party with an intent to participate in a CARP proceeding.

37 CFR 251.63(b). This Federal Register notice fulfills the notice and comment requirement of § 251.63(b).

II. Proposed Rates and Gross Receipts Limitations

The June 30 petition proposes specific adjustments to the cable license royalty rates, pursuant to 17 U.S.C. 801(b)(2)(A), and the gross receipts limitations, pursuant to 17 U.S.C. 801(b)(2)(D). The details of the adjustments are as follows.

With respect to rates, the joint proposal raises the basic (or minimum) fee for providing broadcast stations from .956 of 1 per centum to 1.013 of 1 per centum of gross receipts for the privilege of further transmitting any non-network programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter; the fee for the first distant signal equivalent from .956 of 1 per centum to 1.013 of 1 per centum of gross receipts; the fee for the second, third, and fourth distant signal equivalents from .630 of 1 per centum to .668 of 1 per centum of gross receipts; and the fee for the fifth distant signal equivalent and each distant signal equivalent thereafter, from .296 of 1 per centum to .314 of 1 per centum of gross receipts.

With respect to the gross receipts limitations which determine the size of a cable system (small, medium or large) and the royalty fee percentages that apply to those characterizations, the joint proposal puts forward increases as well. The gross receipts threshold for

determining when a cable system is a small system would be raised from \$98,600 to \$137,100. Medium-sized cable systems have two methods of calculating their royalties, depending upon which side of the limitation threshold their gross receipts result. That threshold would be raised from \$189,800 to \$263,800, with the minimum reportable gross receipts over \$263,800 being raised from \$7,400 to \$10,400. Finally, the gross receipts limitation for determining a large cable system would be raised from \$379,600 to \$527,600.

The joint proposal establishes July 1, 2005, as the effective date of these rates, meaning that they would apply to royalty calculations and payments made by cable systems beginning with the second accounting period of 2005.

III. Proposed Rulemaking

As noted above, the Library is publishing the terms of the joint proposal as proposed amendments to parts 201 and 256 of its rules. Any party who wishes to challenge these proposed rules must submit its written comments to the Librarian of Congress no later than close of business on August 19, 2005. The content of the written challenge should describe the party's interest in this proceeding, the proposed rule or rules that the party finds objectionable, and the reasons for the challenge.

In addition, any party submitting written challenges must also submit an accompanying Notice of Intent to Participate in a CARP proceeding to adjust the cable rates and gross receipts limitations. It should be understood that anyone who challenges the proposed rules must be willing to fully participate in a CARP proceeding and have a significant interest in the adjustment of the rates. Failure to submit a Notice of Intent to Participate will preclude an interested party from participating in this proceeding and will preclude consideration of his or her written challenge. Any interested party that does file a Notice of Intent to Participate will be notified as to when the CARP proceeding will commence and when written direct cases will be due.

List of Subjects

37 CFR Part 201

Copyright, Procedures.

37 CFR Part 256

Cable television, Royalties.

For the reasons set forth in the preamble, the Library proposes to amend 37 CFR parts 201 and 256 as follows:

PART 201—GENERAL PROVISIONS

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

Authority: 17 U.S.C. 702

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

2. Section 201.17 is amended as follows:

a. In paragraph (d)(2), by removing “\$379,600” each place it appears and adding “\$527,600” in its place;

b. In paragraph (e)(12), by removing “\$98,600” and adding “\$137,100” in its place; and

c. In paragraph (g)(2)(ii), by removing “0.956” and adding “1.013” in its place.

PART 256—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

3. The authority citation for part 256 continues to read:

Authority: 17 U.S.C. 702, 802

§ 256.2 Royalty fee for compulsory license for secondary transmission by cable systems.

4. Section 256.2 is amended as follows:

a. In paragraph (a), by removing the phrase “the second semiannual accounting period of 2000” and adding the phrase “the second semiannual accounting period of 2005” in its place;

b. In paragraph (a)(1), by removing “.956” and adding “1.013” in its place;

c. In paragraph (a)(2), by removing “.956” and adding “1.013” in its place;

d. In paragraph (a)(3), by removing “.630” and adding “.668” in its place;

e. In paragraph (a)(4), by removing “.296” and adding “.314” in its place;

f. In paragraph (b), by removing the phrase “the second semiannual accounting period of 2000” and adding the phrase “the second semiannual accounting period of 2005” in its place;

g. In paragraph (b)(1), by removing “\$189,800” each place it appears and adding “\$263,800” in its place, and by removing “\$7,400” and adding “\$10,400” in its place; and

h. In paragraph (b)(2), by removing “\$189,800” each place it appears, and adding “\$263,800” in its place, and by removing “\$379,600” each place it appears and adding “\$527,600” in its place.

Dated: July 14, 2005

Tanya M. Sandros,

Associate General Counsel.

[FR Doc. 05–14270 Filed 7–19–05; 8:45 am]

BILLING CODE 1410–33–S

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[R10–OAR–2005–ID–0002; FRL–7941–1]

Approval and Promulgation of Implementation Plans; Idaho; Correcting Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to correct an error in the incorporation by reference provisions in the approval of revisions to the Rules for the Control of Air Pollution in Idaho (IDAPA 58.01.01) published on January 16, 2003 (68 FR 2217). This correction would remove the list of State toxic air pollutants from the definition of “regulated air pollutant” in the EPA-approved Idaho State implementation plan.

DATES: Written comments must be received by August 19, 2005.

ADDRESSES: Submit your comments, identified by Docket ID No. R10–OAR–2005–ID–0002, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Follow the on-line instructions for submitting comments.

3. Mail: Office of Air, Waste, and Toxics, Environmental Protection Agency, Attn: David C. Bray, Mailcode: AWT–107, 1200 Sixth Avenue, Seattle, WA 98101.

4. Hand Delivery: Environmental Protection Agency Region 10, Attn: David C. Bray (AWT–107), 1200 Sixth Ave., Seattle, WA 98101, 9th floor mail room. Such deliveries are only accepted during EPA’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. R10–OAR–2005–ID–0002. EPA’s policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise

protected through regulations.gov or e-mail. The EPA EDOCKET and the Federal regulations.gov Web site are an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information may not be publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at EPA Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington, from 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Office of Air, Waste and Toxics, Region 10, AWT–107, Environmental Protection Agency, 1200 Sixth Ave., Seattle, WA 98101; phone: (206) 553–4253; fax number: (206) 553–0110; e-mail address: bray.dave@epa.gov.

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