

Subpart I—Paperwork Reduction Act**§ 548.901 Paperwork Reduction Act notice.**

For approval by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: January 27, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

Approved: January 22, 2010.

Stuart A. Levey,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

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DEPARTMENT OF HOMELAND SECURITY
Coast Guard**33 CFR Part 165**

[Docket No. USCG-2009-0878]

RIN 1625-AA00

Safety Zone; AICW Closure Safety Zone for Ben Sawyer Bridge Replacement Project, Sullivan’s Island, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Atlantic Intracoastal Waterway for the safe removal and replacement of the old and new approach spans of the Ben Sawyer Swing Bridge. This regulation is necessary to protect life and property on the navigable waters of the Atlantic Intracoastal Waterway from the dangers associated with the construction project. No vessel or person is allowed in this zone unless authorized by the Captain of the Port or a designated representative.

DATES: *Effective Date:* this rule is effective in the CFR from February 3, 2010 until 11:59 p.m. February 13, 2010. This rule is effective with actual notice for purposes of enforcement beginning 7 a.m. February 3, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0878 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0878 in the “Keyword” box, and then clicking “Search.” This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant Julie Miller, Sector Charleston office of Waterways Management Coast Guard; telephone 843-720-3273, e-mail Julie.e.miller@uscg.mil. If you have any questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because hazards associated with the bridge replacement, including potential falling debris and the use of heavy equipment and machinery in the waterway, could lead to severe injury, fatalities and/or destruction of public property. Therefore, immediate action is needed to ensure the public’s safety from the hazards noted above.

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** for the same reasons as stated above.

Background and Purpose

The removal and replacement of the old and new spans of the Ben Sawyer Bridge are scheduled to begin on February 3, 2010. This operation

presents a potential hazard to mariners from falling debris and the use of heavy equipment and machinery. To provide for the safety of the public, the Coast Guard will temporarily restrict access to this section of the Atlantic Intracoastal Waterway during bridge replacement operations.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone to encompass the waters of the Atlantic Intracoastal Waterway Mile 462.2, extending 180 yards northwest of the Ben Sawyer Bridge, and 220 yards southwest of the Ben Sawyer Bridge (32°46.22 N, 079°50.31 W (NAD 1983)). The actual date of the bridge spans removal and replacement is subject to change due to weather and other scheduling constraints. Notification of the safety zone will be announced through broadcast notice to mariners, marine safety information bulletins, local media press releases, and on-scene Coast Guard assets. Marine traffic will not be permitted to enter the safety zone without permission of the Captain of the Port Charleston or his designated representative. Traffic needing permission to pass through the safety zone can contact the COTP on VHF-FM channel 16 or via phone at (843) 740-7050.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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.

Although this regulation will restrict access to the area, the effect of the rule will not be significant because the safety zone will only be in effect for a short duration and only affects a small portion of the waterway. Additionally, advanced outreach and notification to marine traffic notifying them of the upcoming closure will occur, therefore marine traffic should be able to plan transits around closure dates or plan safe alternate transit routes if transiting during the expected closure dates.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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 rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit the affected portion of the Atlantic Intracoastal Waterway from 7 a.m. on February 3, 2010 to 11:59 p.m. on February 13, 2010. This impact will not be significant but may have impact on routine navigation because the safety zone will be effective for 10 days and close down the entire portion of the Atlantic Intracoastal Waterway. Although the safety zone will apply to the entire width of the Atlantic Intracoastal Waterway channel at the Ben Sawyer Bridge, the Coast Guard will outreach to traffic in advance of the bridge closure, so that they may schedule trips and plan alternate routes accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 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 will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect 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 does not create an environmental risk to health or risk to safety that may 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 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.

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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph 34(g), of the Instruction. This rule establishes a temporary safety zone to protect the public from bridge replacement operations. An environmental analysis checklist 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.

■ 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.

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 382

[Docket No. 2006–1 CRB DSTR A]

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