

c. Review Under the National Environmental Policy Act

A preliminary draft environmental assessment has been prepared for this action. Due to the administrative nature of this action and because the intended change will only expand the existing restricted area by approximately 1.4 acres for a ten year period, the Corps expects that this regulation, if adopted, will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. The environmental assessment will be finalized after the public notice period is closed and all comments have been received and considered. It may be reviewed at the District office listed at the end of the **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private section mandate and it is not subject to the requirements of either section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons stated in the preamble, the Corps proposes to amend 33 CFR part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Revise § 334.815 to read as follows:

§ 334.815, Menominee River, at the Marinette Marine Corporation Shipyard, Marinette, Wisconsin; naval restricted area.

(a) *The area.* The waters adjacent to Marinette Marine Corporation's pier defined by a rectangular shape on the south side of the river beginning on shore at the eastern property line of Marinette Marine Corporation at latitude 45°05'55.87" N., longitude 087°36'55.61" W.; thence northerly to latitude 45°05'59.72" N., longitude 087°36'55.61" W.; thence westerly to latitude 45°06'03.22" N., longitude 87°37'09.75" W.; thence westerly to

latitude 45°06'03.78" N., longitude 87°37'16.40" W.; thence southerly to latitude 45°06'2.80" N., longitude 87°37'16.56" W.; thence easterly along the Marinette Marine Corporation pier to the point of origin. The restricted area will be marked by a lighted and signed floating buoy line.

(b) *The regulation.* All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the United States Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area when marked by signed floating buoy line without permission from the Supervisor of Shipbuilding, Conversion and Repair, USN, Bath, ME or his/her authorized representative.

(c) *Enforcement.* The regulation in this section shall be enforced by the Supervisor of Shipbuilding, Conversion and Repair, USN, Bath, ME and/or such agencies or persons as he/she may designate.

(d) *Disestablishment of restricted area.* The restricted area will be disestablished not later than November 17, 2025, unless written application for its continuance is made to and approved by the Secretary of the Army prior to that date.

Dated: August 3, 2016. Approved:

Edward E. Belk, Jr.,

*Chief, Operations and Regulatory Division,
Directorate of Civil Works.*

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 370

[Docket No. RM 2008-7]

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License; Technical Amendment

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule.

SUMMARY: On June 21, 2016, the Copyright Royalty Judges (Judges) published in the **Federal Register** a technical amendment to regulations that govern reporting requirements for noncommercial educational webcasters that pay no more than the minimum fee for their use of sound recordings under the applicable statutory licenses. Subsequently, interested parties petitioned the Judges to amend the

regulations further to effect the Judges' stated intent. The Judges' hereby publish the proposed amendment and request comments to the proposed rule.

DATES: Comments are due no later than September 9, 2016.

ADDRESSES: This notice and request is also posted on the agency's Web site (www.loc.gov/crb) and on Regulations.gov (www.regulations.gov). Submit electronic comments to crb@loc.gov. See the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments in other formats.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle at (202) 707-7658 or at crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Introduction

The Copyright Royalty Judges (Judges) published a technical amendment to a final rule in the **Federal Register** to clarify that the reporting requirements in Part 370 that applied to "Minimum Fee Broadcasters" now apply to the more inclusive group, "Eligible Minimum Fee Webcasters."¹ 81 FR 40190 (Jun. 21, 2016) (emphasis added). The Judges added the new term "Eligible Minimum Fee Webcaster" to the definition section of 37 CFR 370.4. They also removed the "Minimum Fee Broadcaster" definition, which they deemed to be no longer necessary because the new definition of "Eligible Minimum Fee Webcasters" was intended to include the entities that qualified under the prior definition of "Minimum Fee Broadcasters."

By adding the new term "Eligible Minimum Fee Webcasters," the Judges intended to expand relaxed reporting requirements then available to Minimum Fee Broadcasters to certain nonprofit educational webcasters that had previously been denied those expanded relaxed reporting requirements.

On June 21, 2016, the Judges received a Joint Petition of the National Association of Broadcasters and the National Religious Broadcasters Noncommercial Music License Committee to Amend Final Rule Regarding Reporting Requirements (Joint Motion). The moving parties contended that by removing the definition of "Minimum Fee Broadcaster," the Judges had failed to effect their intent. The moving parties requested that the Judges reinstate the

¹ The Judges used the term "webcaster" advisedly, as stations do not report or pay royalties for broadcasting over the air. They only pay for the rights to stream sound recordings over the Internet, or "webcast."

definition of “broadcaster” as “an entity that owns and operates a terrestrial AM or FM radio station that is licensed by the Federal Communications Commission.” Absent this amendment, the petitioners contended that noncommercial minimum fee broadcasters that were not educational webcasters were excluded from the new definition of “Eligible Minimum Fee Webcaster.”

The Judges find that the regulation, as amended on June 21, 2016, defines the new term “Eligible Minimum Fee Webcaster” too narrowly and therefore arguably excludes noncommercial minimum fee broadcasters, a category that the Judges had intended to include.

The Judges shall treat the Joint Motion as a petition for rulemaking and now propose to make the necessary changes to include minimum fee noncommercial broadcasters in the definition of “Eligible Minimum Fee Webcasters.” That inclusion shall ensure that noncommercial minimum fee broadcasters qualify fully for the relaxed reporting requirements in part 370.

How To Submit Comments

Interested parties must submit comments to only one of the following addresses. Unless responding by email, claimants must submit an original, five paper copies, and an electronic version on a CD or other portable memory device in Portable Document Format (PDF) that contains searchable, accessible text (not a scanned image of text). Commenters should conform all filed electronic documents to the Judges’ Guidelines for Electronic Documents posted on the Copyright Royalty Board Web site at http://www.loc.gov/crb/docs/Guidelines_for_Electronic_Documents.pdf. Email: crb@loc.gov; or

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue SE., Washington, DC 20559-6000. *Deliver to:* Congressional Courier Acceptance Site, 2nd Street NE., and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue SE., Washington, DC 20559-6000.

List of Subjects in 37 CFR 370

Copyright, Sound recordings.

Proposed Regulations

In consideration of the foregoing, the Copyright Royalty Judges propose to amend 37 CFR part 370 as follows:

PART 370—NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES

■ 1. The authority citation for part 370 continues to read as follows:

Authority: 17 U.S.C. 112(e)(4), 114(f)(4)(A).

■ 2. In § 370.4, in paragraph (b), revise the definition of “Eligible Minimum Fee Webcaster” to read as follows:

§ 370.4 Reports of use of sound recordings under statutory license for nonsubscription transmission services, preexisting satellite digital audio radio services, new subscription services and business establishment services.

* * * * *

(b) * * *

Eligible Minimum Fee Webcaster means a nonsubscription transmission service whose payments for eligible transmissions do not exceed the annual minimum fee established for licensees relying upon the statutory licenses set forth in 17 U.S.C. 112(e) and 114; and:

(i) Is a Licensee that owns and operates a terrestrial AM or FM radio station that is licensed by the Federal Communications Commission; or

(ii) Is directly operated by, or affiliated with and officially sanctioned by, a domestically accredited primary or secondary school, college, university, or other post-secondary degree-granting institution; and

(A) The digital audio transmission operations of which are, during the course of the year, staffed substantially by students enrolled in such institution;

(B) Is exempt from taxation under section 501 of the Internal Revenue Code, has applied for such exemption, or is operated by a State or possession or any governmental entity or subordinate thereof, or by the United States or District of Columbia, for exclusively public purposes; and

(C) Is not a “public broadcasting entity” (as defined in 17 U.S.C. 118(f)) qualified to receive funding from the Corporation for Public Broadcasting pursuant to the criteria set forth in 47 U.S.C. 396

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Dated: July 28, 2016.

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 414, 417, 422, 423, 424, 425, and 460

[CMS-1654-CN]

RIN 0938-AS81

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2017; Medicare Advantage Pricing Data Release; Medicare Advantage and Part D Medical Low Ratio Data Release; Medicare Advantage Provider Network Requirements; Expansion of Medicare Diabetes Prevention Program Model; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a technical error in the proposed rule that appeared in the July 15, 2016 **Federal Register** (81 FR 46162-46476) entitled, “Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2017; Medicare Advantage Pricing Data Release; Medicare Advantage and Part D Medical Low Ratio Data Release; Medicare Advantage Provider Network Requirements; Expansion of Medicare Diabetes Prevention Program Model.”

DATES: The proposed rule published July 15, 2016 (81 FR 46162-46476) is corrected as of August 9, 2016.

FOR FURTHER INFORMATION CONTACT: Terri Plumb, (410) 786-4481, Gaysha Brooks, (410) 786-9649, or Annette Brewer (410) 786-6580.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016-16097 (81 FR 46162), the proposed rule entitled, “Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2017; Medicare Advantage Pricing Data Release; Medicare Advantage and Part D Medical Low Ratio Data Release; Medicare Advantage Provider Network Requirements; Expansion of Medicare Diabetes Prevention Program Model” (referred to hereafter as the “CY 2017 PFS proposed rule,”) there was a technical error that is identified and corrected in this correcting document. The correction is applicable as of August 9, 2016.