

and limit the DPRC’s ability to exercise independent judgment in the adjudication of applications for review.

(8) Continue in effect and assert all exemptions claimed under 5 U.S.C. 552a(j) or (k) by an originating agency from which DOJ obtains records where the purposes underlying the original exemption remain valid and necessary to protect the contents of the record.

Dated: August 23, 2023.

Peter Winn,

Chief Privacy and Civil Liberties Officer (Acting), United States Department of Justice.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[USCG–2023–0250]

2023 Quarterly Listings; Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DHS.

ACTION: Notification of expired temporary rules issued.

SUMMARY: This document provides notification of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This document lists temporary safety zones, security zones, and special local regulations, all of limited duration and for which timely publication in the **Federal Register** was not possible. This document also announces notifications of enforcement for existing reoccurring regulations that we issued but were unable to be published before the enforcement period ended.

DATES: This document lists temporary Coast Guard rules and notifications of enforcement that became effective, primarily between January 2023 and March 2023, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

ADDRESSES: Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this document contact Yeoman First Class Glenn Grayer, Office of Regulations and Administrative Law, telephone (202) 372–3862.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by

the rule. Timely publication of notifications of enforcement of reoccurring regulations may be precluded when the event occurs with short notice or other agency procedural restraints.

Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. In some of our reoccurring regulations, we say we will publish a notice of enforcement as one of the means of notifying the public. We use this notification to announce those notifications of enforcement that we issued and will post them to their dockets.

The following unpublished rules were placed in effect temporarily during the period between January 2023 and March 2023 unless otherwise indicated. To view copies of these rules, visit www.regulations.gov and search by the docket number indicated in the following table.

Docket No.	Type of regulation	Location	Enforcement date
USCG–2022–0991	Safety Zones (Parts 147 and 165)	Port Detroit Zone	12/31/2022
USCG–2022–1008	Safety Zones (Parts 147 and 165)	Corpus Christi, TX	1/4/2023
USCG–2022–1003	Security Zones (Part 165)	Cincinnati, OH	1/4/2023
USCG–2023–0060	Safety Zones (Parts 147 and 165)	U.S. EEZ offshore of Jacksonville, Daytona, and Cape Canaveral, FL.	1/12/2023
USCG–2023–0066	Safety Zones (Parts 147 and 165)	Corpus Christi, TX	1/13/2023
USCG–2023–0069	Security Zones (Part 165)	Amelia Island, FL	1/22/2023
USCG–2023–0103	Security Zones (Part 165)	Baltimore, MD	1/30/2023
USCG–2023–0088	Safety Zones (Parts 147 and 165)	Pensacola, FL	1/30/2023
USCG–2023–0107	Safety Zones (Parts 147 and 165)	Corpus Christi, TX	1/30/2023
USCG–2023–0090	Safety Zones (Parts 147 and 165)	Corpus Christi, TX	2/1/2023
USCG–2023–0140	Security Zones (Part 165)	Tampa, FL	2/9/2023
USCG–2022–1006	Special Local Regulations (Part 100)	Bradenton, FL	2/11/2023
USCG–2023–0071	Safety Zones (Parts 147 and 165)	South Padre Island, TX	2/11/2023
USCG–2023–0190	Safety Zones (Parts 147 and 165)	Charleston, SC	3/2/2023
USCG–2023–0016	Security Zones (Part 165)	Miami Beach, FL	3/8/2023
USCG–2023–0208	Security Zones (Part 165)	San Diego, CA	3/13/2023

Docket No.	Type of regulation	Location	Enforcement date
USCG–2023–0221	Safety Zones (Parts 147 and 165)	Miami, FL	3/17/2023

Michael Cunningham,

Chief, Office of Regulations and
Administrative Law, United States Coast
Guard.

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 210

[Docket No. 2023–2]

Fees for Late Royalty Payments Under the Music Modernization Act

AGENCY: U.S. Copyright Office, Library
of Congress.

ACTION: Interpretive rule; termination of
notification of inquiry

SUMMARY: The U.S. Copyright Office
adopts the following interpretive rule
regarding fees for late royalty payments
under the Music Modernization Act's
statutory mechanical blanket license
and terminates its notification of inquiry
on this subject that was published on
February 23, 2023.

DATES: Effective September 5, 2023.

FOR FURTHER INFORMATION CONTACT:
Rhea Efthimiadis, Assistant to the
General Counsel, by email at mefth@copyright.gov
or telephone at 202–707–
8350.

SUPPLEMENTARY INFORMATION:

I. Background

On February 23, 2023, the Copyright
Office (“Office”) published a
notification of inquiry (“NOI”) in the
Federal Register seeking public
comments regarding when fees for late
royalty payments should be assessed in
connection with reporting by digital
music providers (“DMPs”) under the
Orrin G. Hatch-Bob Goodlatte Music
Modernization Act’s (“MMA’s”) *statutory mechanical blanket license*
(the “blanket license”).¹ The Office
opened the February NOI based on
interested parties’ requests for guidance
on this matter.

Having carefully considered the
comments and thoroughly examined the
statute and legislative history, the Office
is terminating the inquiry without
issuing any regulations on this subject.

Rather, the Office is issuing an
interpretive rule to provide the
mechanical licensing collective
 (“MLC”), DMPs, and other parties with
its conclusion that the statute’s due date
provisions are unambiguous.
Interpretive rules “advise the public of
the agency’s construction of the statutes
and rules which it administers.”² Under
the Administrative Procedure Act,
interpretive rules are not subject to
notice and comment procedures and can
be published with an immediate
effective date.³ Consequently, the
publication of this document concludes
this proceeding.⁴

A. Statutory Background

The MMA substantially modified the
statutory “mechanical” license for
reproducing and distributing
phonorecords of nondramatic musical
works under 17 U.S.C. 115, including by
switching from a song-by-song licensing
system to a blanket licensing regime that
became available on January 1, 2021
(the “license availability date”),
administered by the MLC designated by
the Office.⁵ The Office also designated
a digital licensee coordinator (the
“DLC”) to represent DMPs in
proceedings before the Copyright
Royalty Judges (“CRJs,” also sometimes
referred to as the “Copyright Royalty
Board” or “CRB”). The DLC also serves
as a non-voting member of the MLC and
carries out other functions.⁶ Under the
MMA, DMPs are able to obtain the
blanket license to make digital
phonorecord deliveries of nondramatic
musical works, including in the form of
permanent downloads, limited
downloads, or interactive streams,
subject to various requirements,
including payment and reporting
obligations.⁷

As relevant to this proceeding, the
MMA states that with respect to DMPs’
payment and reporting obligations

² *Perez v. Mortgage Bankers Ass’n*, 575 U.S. 92,
97 (2015) (quoting *Shalala v. Guernsey Mem. Hosp.*,
514 U.S. 87, 99 (1995)).

³ See 5 U.S.C. 553(b)(A), (d)(2).

⁴ The Office may issue a notice of proposed
rulemaking regarding outstanding issues relating to
adjustments (e.g., regarding the timing of royalty
payments, invoices, and response files) at a later
date. See 88 FR 6630 (Feb. 1, 2023).

⁵ Public Law 115–264, 132 Stat. 3676 (2018).

⁶ 84 FR 32274 (July 8, 2019).

⁷ 17 U.S.C. 115(d). Alternatively, DMPs have the
option to engage in these activities, in whole or in
part, through voluntary licenses with copyright
owners.

under the blanket license, “monthly
reporting shall be due on the date that
is 45 calendar days . . . after the end of
the monthly reporting period.”⁸ The
MMA also states that “[l]ate fees for past
due royalty payments shall accrue from
the due date for payment until payment
is received by the [MLC].”⁹ Other
reporting and payment deadlines,
including regulations governing
estimates and adjustments, are
regulatory in nature. These provisions
are further discussed below.

1. Statutory Division of Responsibility

The Copyright Act, as amended by the
MMA, assigns different responsibilities
to the CRJs and Office with respect to
the blanket license. Congress granted
the CRJs the responsibility to set the
blanket license’s royalty rates and
terms.¹⁰ As part of this ratesetting
authority, the CRJs’ determinations
“may include terms with respect to late
payment[s].”¹¹ These “late fees” are a
consequence of late royalty payments.
While the CRJs’ authority to set such
late fees predated the MMA, the MMA
added a provision stating that, with
respect to the blanket license, “[l]ate
fees for past due royalty payments shall
accrue from the due date for payment
until payment is received by the
[MLC].”¹²

The Office’s responsibilities under the
MMA include overseeing the
administration of the blanket license,
including by promulgating various
regulations specifically required by
Congress, such as those governing
reporting and payment requirements for
DMPs.¹³ Relevant to this proceeding,
Congress directed the Office to adopt
regulations “regarding adjustments to
reports of usage by digital music
providers, including mechanisms to
account for overpayment and
underpayment of royalties in prior
periods.”¹⁴ Additionally, Congress
granted the Office “broad regulatory
authority”¹⁵ to “conduct such

⁸ *Id.* at 115(d)(4)(A)(i).

⁹ *Id.* at 115(d)(8)(B)(i).

¹⁰ *Id.* at 115(c)(E)–(F), (d)(8)(B)–(D); *id.* at
801(b)(1).

¹¹ *Id.* at 803(c)(7); see also *id.* at 115(d)(8)(B).

¹² *Id.* at 115(d)(8)(B)(i).

¹³ *Id.* at 115(d)(4)(A)(ii)(III), (iii), (iv).

¹⁴ *Id.* at 115(d)(4)(A)(iv)(III).

¹⁵ H.R. Rep. No. 115–651, at 5–6 (2018); S. Rep.
No. 115–339, at 5 (2018); Staff of S. and H. Comms.
On the Judiciary, 115th Cong., Report and Section-

¹ 88 FR 11398 (Feb. 23, 2023).