

Background and Purpose

On November 7, 1998, the Morehead City Downtown Revitalization Committee will sponsor the Blackbeard's Bounty Festival Pirate Attack in the waters of Bogue Sound, between the Morehead City waterfront and Sugar Loaf Island. The event will consist of a mock pirate attack, with simulated cannon fire and pyrotechnic displays. These temporary special local regulations are necessary to provide for the safety of life and property on navigable waters during the event.

Discussion of Regulations

The Coast Guard will establish temporary special local regulations on specified waters of Bogue Sound, between the Morehead City waterfront and Sugar Loaf Island. The temporary special local regulations will be in effect from 1:30 p.m. to 6 p.m. on November 7, 1998. Except for participants in the Blackbeard's Bounty Festival Pirate Attack and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory procedures of DOT is unnecessary. Since the regulations will only be in effect for a short period, the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C.

601-612) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(h) of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

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

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary Section 100.35-T05-093 is added to read as follows:

§ 100.35-T05-093 Bogue Sound Morehead City, North Carolina.

(a) Definitions:

(1) *Regulated area:* The waters of Bogue Sound between the Morehead City waterfront and Sugar Loaf Island from shoreline to shoreline, bounded on the west by a line drawn along longitude 76°43'00" West and bounded on the east by a line drawn along longitude 76°42'30" West. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Fort Macon.

(b) *Special Local Regulations:*

(1) Except for participants in the Blackbeard's Bounty Festival Pirate Attack and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective dates:* This temporary final rule is effective from 1:30 p.m. to 6 p.m. on November 7, 1998.

Dated: October 21, 1998.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

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LIBRARY OF CONGRESS

Copyright Office

37 CFR, Part 201

[Docket No. 98-11]

Designation of Agent to Receive Notification of Claimed Infringement

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim regulations.

SUMMARY: The Copyright Office of the Library of Congress is issuing interim regulations governing the designation by online service providers of agents to receive notifications of claimed infringement. The regulations are issued on an interim basis without opportunity for comment due to the necessity of having regulations in place immediately upon enactment of the Online Copyright Infringement Liability Limitation Act. These regulations will be replaced by more complete regulations to be promulgated following notice and opportunity for comment.

EFFECTIVE DATE: The interim regulations are effective November 3, 1998.

ADDRESSES: An original and fifteen copies of the comments shall be delivered to: Office of the General Counsel, Copyright Office, LM-403, James Madison Memorial Building, 101 Independence Avenue, SE, Washington, DC, or mailed to: David Carson, General Counsel, Copyright GC/I&R, P.O. Box

70400, Southwest Station, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Jennifer L. Hall, Senior Attorney, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1998, President Clinton signed into law the Digital Millennium Copyright Act, Pub. L. 105-_____ (1998). Title II of the Act (subtitled the "Online Copyright Infringement Liability Limitation Act") amended chapter 5 of the copyright law, title 17 United States Code, to provide limitations for service provider liability relating to material online. Specifically, new subsection 512(c) provides limitations on service provider liability with respect to material residing, at the direction of a user, on a system or network that the service provider controls or operates, if the conditions set forth in subsection 512(c)(1) are satisfied.

The limitations on liability established in subsection 512(c) apply to a service provider only if the service provider has designated an agent to receive notifications of claimed infringement by providing contact information for that agent (1) to the Copyright Office and (2) through the service provider's publicly accessible website. 17 U.S.C. 512(c)(2). The required information includes: (A) The name, address, telephone number, and electronic mail address of the agent; and (B) other contact information that the Register of Copyrights deems appropriate. *Id.* The Register of Copyrights shall maintain a current directory of designated agents, and make the listing available to the public for inspection, and may require payment of a fee by service providers to cover the costs of maintaining the directory. *Id.*

Because the Online Copyright Infringement Liability Limitation Act was effective on its date of enactment, and because online service providers may wish immediately to designate agents to receive notification of claimed infringement in order to meet the requirements of section 512(c)(2), the Copyright Office herein establishes interim regulations governing the designation of agents to receive notification of claimed infringement. The Office finds, for good cause, that notice and public procedure for issuance of these interim regulations would be impracticable, because of the

necessity of having a procedure for designation of agents in place immediately upon the enactment of the Online Copyright Infringement Liability Limitation Act. These interim regulations will be effective immediately, but the Office will publish a notice of proposed rulemaking within the next several weeks seeking comments on more comprehensive final regulations governing the designation of agents to receive notification of claimed infringement. Interim designations filed pursuant to these interim regulations will be valid until the effective date of the final regulations. At that time, service providers wishing to invoke section 512(c)(2) will have to file new designations that satisfy the requirements of the final regulations, which will include the payment of the fee required under the final regulations.

Under section 512(c)(2), a service provider designates an agent by providing information required by Copyright Office regulations both on its publicly available website and in a filing with the Copyright Office. The requirements for such designation during the interim period prior to issuance of final regulations are governed by the rules set forth in the new interim regulations set forth in 37 CFR 201.38. During the interim period the Office will not provide printed forms for filing such interim designations. In order to satisfy section 512(c)(2), online service providers must file a document entitled "Interim Designation of Agent to Receive Notifications of Claimed Infringement" which contains all the information required by section 512(c)(2). Section 512(c)(2) provides that the Office may require payment of a fee by service providers to cover the costs of maintaining a directory of agents. The Office concludes that during the interim period, the appropriate fee for the filing of an interim designation is \$20.00, the fee currently charged for recordation of a document. *See* 17 U.S.C. 708(a)(4). The fee that will be charged for filing a Designation of Agent to Receive Notifications of Claimed Infringement under the final regulations most likely will be higher.

During the interim period before final regulations are promulgated, each Interim Declaration may be filed only on behalf of a single service provider. For purposes of these interim regulations, related companies (e.g., parents and subsidiaries) are considered separate service providers who would file separate Interim Designations. When it considers final regulations, the Office will solicit comments as to whether related companies (e.g., parent and

subsidiary companies) should be permitted to file a single Designation of Agent to Receive Notifications of Claimed Infringement.

List of Subjects in 37 CFR Part 201

Copyright.

Interim Regulations

For the reasons set forth in the preamble, part 201 of title 37 of the Code of Federal Regulations is amended to read as follows:

PART 201—GENERAL PROVISIONS

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

Authority: 17 U.S.C. 702.

2. Section 201.38 is added to read as follows:

§ 201.38 Designation of agent to receive notification of claimed infringement.

(a) *General.* This section prescribes interim rules under which service providers may provide the Copyright Office with designations of agents to receive notification of claimed infringement under section 512(c)(2) of title 17 of the United States Code, as amended. These interim rules shall remain in effect until more comprehensive rules have been promulgated following a notice of proposed rulemaking and receipt of public comments.

(b) *Forms.* The Copyright Office does not provide printed forms for filing an Interim Designation of Agent to Receive Notification of Claimed Infringement.

(c) *Content.* An "Interim Designation of Agent to Receive Notification of Claimed Infringement" shall be identified as such by prominent caption or heading, and shall include the following information with respect to a single service provider:

- (1) The full legal name and address of the service provider;
- (2) All names under which the service provider is doing business;
- (3) The name of the agent designated to receive notification of claimed infringement;
- (4) The full address, including a specific number and street name or rural route, of the agent designated to receive notification of claimed infringement. A post office box or similar designation will not be sufficient except where it is the only address that can be used in that geographic location;
- (5) The telephone number, facsimile number, and electronic mail address of the agent designated to receive notification of claimed infringement.

(d) *Signature.* The Interim Designation of Agent to Receive

Notification of Claimed Infringement shall include the signature of the appropriate officer or representative of the service provider designating the agent. The signature shall be accompanied by the printed or typewritten name and title of the person signing the Notice, and by the date of signature.

(e) *Filing.* A service provider may file the Interim Designation of Agent to Receive Notification of Claimed Infringement with the Public Information Office of the Copyright Office, Room LM-401, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE, Washington, DC, during normal business hours, 9 am to 5 pm. If mailed, the Interim Designation should be addressed to: Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Each designation shall be accompanied by a filing fee of \$20.00. Designations and amendments will be posted online on the Copyright Office's website (<http://www.loc.gov/copyright>).

(f) *Amendments.* In the event of a change in the information reported in an Interim Designation of Agent to Receive Notification of Claimed Infringement, a service provider shall file with the Public Information Office of the Copyright Office an amended Interim Designation of Agent to Receive Notification of Claimed Infringement, containing the current information required by section 201.38(c). The amended Interim Designation shall be signed in accordance with the requirements of section 201.38(d) and shall be accompanied by a fee of \$20.00.

(g) *Termination and dissolution.* If a service provider terminates its operations, the entity shall notify the Copyright Office by certified or registered mail.

Dated: October 28, 1998.

Marybeth Peters,

Register of Copyrights.

Approved:

James H. Billington,

The Librarian of Congress.

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 98-10]

Corrections and Amplifications of Copyright Registrations; Applications for Supplementary Registration

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim Rule; correction.

SUMMARY: Subsection 408(d) of the Copyright Act authorizes the Register of Copyrights to accept applications for supplementary registration to correct errors or amplify information in basic registrations. The Copyright Office of the Library of Congress is now changing the regulatory language to clarify the type of amplification that may be made to a basic registration through supplementary registration.

EFFECTIVE DATE: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Renee Coe, Attorney Advisor, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707-8380 or Telefax (202) 707-8366.

SUPPLEMENTARY INFORMATION:

Background

Subsection 408(d) of the Copyright Act authorizes the Register of Copyrights to accept applications for supplementary registration. The purpose of supplementary registration is to correct errors or amplify information in a basic registration. The regulations for supplementary registration are contained in 37 CFR 201.5, which took effect on January 1, 1978, to implement the 1976 revision of the Copyright Act. Since that time, only minor technical amendments have been made to § 201.5.

The Copyright Office is now revising portions of § 201.5(b) to convey more clearly the Copyright Office's practices and procedures regarding the kind of amplifications that may be made to a basic registration through supplementary registration. The purpose of this notice is to remove any ambiguity concerning paragraph (b) that might exist by clarifying what has been standard practice for many years.

The Copyright Office determined that paragraph (b) should be clarified after it recently became aware that a member of the public misinterpreted the kind of amplification that may be made to a basic application through supplementary registration. Under this misinterpretation, paragraph (b) would

prevent an amplification to add the name of someone who is a co-claimant or co-owner of a copyright but who is not also a co-author. The Copyright Office recognizes that paragraph (b) may be susceptible of such a misinterpretation. This amendment will preclude such an interpretation by clarifying that supplementary registration may be used to add the name of a co-owner or co-claimant who is not a co-author but whose name should have been provided at the time the basic registration was made.

This clarification is made by limiting amplifications to the information that is required by the application for the basic registration. See § 201.5(b)(2)(ii)(A). Defined this way, it is clear that supplementary registration may be made to add information about claimants, whether or not they are also authors, if such information constitutes a correct statement of the facts that existed at the time of the original submission of the claim already on record. The information that is required in an application for a basic registration is set forth at 17 U.S.C. 409. The Copyright Office follows the general policy of requiring all authors and copyright claimants to supply information, consistent with 17 U.S.C. 409, concerning the authorship being claimed in the application for registration.

As revised, § 201.5(b)(2)(ii)(A) now expressly states that a supplementary registration may be made to provide information "such as the identity of a co-author or co-claimant." This amendment also clarifies that an amplification may not be made through supplementary registration to add information about an owner or claimant who acquired a copyright claim on or after the effective date of registration. See § 201.5(b)(2)(iii)(A).

These changes clarify what have been the Copyright Office's longstanding practices and procedures. There will be no change in Copyright Office procedures as a result of this amendment.

List of Subjects in 37 CFR Part 201

Copyright, Registration.

Interim Rule

For the reasons stated above, 37 CFR 201.5 is amended as set forth below:

PART 201—GENERAL PROVISIONS

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

Authority: 17 U.S.C. 702.