

Guard assets or other Federal, State or local law enforcement agency assets clearly identifiable by lights, vessel markings, or with agency insignia as listed below:

Coast Guard surface or air asset displaying the Coast Guard insignia.

State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.

When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used. In all cases, broadcast notice to mariners will be issued to advise mariners of these restrictions.

*Minimum safe speed* means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed. In no instance should minimum safe speed be interpreted as a speed less than that required for a particular vessel to maintain steerageway. A vessel is not proceeding at minimum safe speed if it is:

(1) On a plane;

(2) In the process of coming up onto or coming off a plane; or

(3) Creating an excessive wake.

(b) *Regulated area*. All navigable waters, as defined in 33 CFR 2.36, within the Captain of the Port Zone, Charleston, South Carolina 33 CFR 3.35–15.

(c) *Security zone*. A 300-yard security zone is established around each escorted vessel within the regulated area described in paragraph (b) of this section. This is a moving security zone when the escorted vessel is in transit and becomes a fixed zone when the escorted vessel is anchored or moored. A security zone will not extend beyond the boundary of the regulated area in this section.

(d) *Regulations*. (1) The general regulations for security zones contained in § 165.33 of this part applies to this section.

(2) A vessel may request the permission of the COTP Charleston or a designated representative to enter the security zone described in paragraph (c) of this section. If permitted to enter the security zone, a vessel must proceed at the minimum safe speed and must comply with the orders of the COTP or a designated representative. No vessel or person may enter the inner 50-yard portion of the security zone closest to the vessel.

(e) *Notice of security zone*. The COTP will inform the public of the existence or status of the security zones around escorted vessels in the regulated area by Broadcast Notice to Mariners. Coast Guard assets or other Federal, State or local law enforcement agency assets will be clearly identified by lights, vessel markings, or with agency insignia. When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used.

(f) *Contact information*. The COTP Charleston may be reached via phone at (843) 724–7616. Any on scene Coast Guard or designated representative assets may be reached via VHF-FM channel 16.

[USCG–2007–0115, 73 FR 30562, May 28, 2008]

[FR Doc. 2010–2771 Filed 2–5–10; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 380

[Docket No. 2005–1 CRB DTRA]

#### Digital Performance Right in Sound Recordings and Ephemeral Recordings

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Royalty Judges are publishing final regulations governing the statutory minimum fees to be paid by Commercial Webcasters under two statutory licenses, permitting certain digital performances of sound recordings and the making of ephemeral recordings, for the period beginning January 1, 2006, and ending on December 31, 2010.

**DATES:** *Effective Date:* March 10, 2010.

*Applicability Dates:* The regulations apply to the license period January 1, 2006, through December 31, 2010.

**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](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** On May 1, 2007, the Copyright Royalty Judges (“Judges”) published in the **Federal Register** their determination of royalty rates and terms under the statutory licenses under Section 112(e) and 114 of the Copyright Act, title 17 of the United States Code, for the period 2006 through 2010 for a digital public performance of sound recordings by means of eligible

nonsubscription transmission or a transmission by a new subscription service. 72 FR 24084. In *Intercollegiate Broadcast System, Inc. v. Copyright Royalty Board*, 574 F.3d 748 (D.C. Cir. 2009), the United States Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) affirmed the Judges’ determination in the main but remanded to the Judges the matter of setting the minimum fee to be paid by both Commercial Webcasters and Noncommercial Webcasters under Sections 112(e) and 114 of the Copyright Act. *Id.* at 762, 767. By order dated October 23, 2009, the Judges established a period commencing November 2, 2009, and concluding on December 2, 2009, for the parties to negotiate and submit a settlement of the minimum fee issue that was the subject of the remand.

On December 2, 2009, SoundExchange, Inc. and the Digital Media Association (“DiMA”) submitted a settlement regarding the statutory minimum fee to be paid by Commercial Webcasters. 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 D.C. Circuit. 74 FR 68214 (December 23, 2009). Comments were due to be filed by no later than January 22, 2010. The Judges received one comment from Intercollegiate Broadcasting System, Inc. (“IBS”).

IBS requests that the Judges publish a note to proposed § 380.3(b)(2) stating that the Judges on remand will determine the minimum fee for Noncommercial Webcasters. Comments of IBS at 2–3. The Judges decline to do so. As was made clear in the December 23, 2009, Notice, the proposed settlement applies only to Commercial Webcasters. Therefore, the Judges are adopting as final the proposed change as published on December 23, 2009. See 74 FR 68214.

#### List of Subjects in 37 CFR Part 380

Copyright, Sound recordings.

#### Final Regulations

■ For the reasons set forth in the preamble, the Copyright Royalty Judges are amending part 380 of title 37 of the Code of Federal Regulations as follows:

**PART 380—RATES AND TERMS FOR CERTAIN ELIGIBLE NONSUBSCRIPTION TRANSMISSIONS, NEW SUBSCRIPTION SERVICES AND THE MAKING OF EPHEMERAL REPRODUCTIONS**

■ 1. The authority citation for part 380 of title 37 of the Code of Federal Regulations as follows:

**Authority:** 17 U.S.C. 112(e), 114(f), 804(b)(3).

■ 2. Section 380.3 is amended by revising paragraph (b) to read as follows:

**§ 380.3 Royalty fees for the public performance of sound recordings and for ephemeral recordings.**

\* \* \* \* \*

(b) *Minimum fee*—(1) *Commercial Webcasters*. Each Commercial Webcaster will pay an annual, nonrefundable minimum fee of \$500 for each calendar year or part of a calendar year of the period 2006–2010 during which it is a Licensee pursuant to 17 U.S.C. 112(e) or 114. This annual minimum fee is payable for each individual channel and each individual station maintained by Commercial Webcasters, and is also payable for each individual Side Channel maintained by Broadcasters who are Commercial Webcasters, provided that a Commercial Webcaster shall not be required to pay more than \$50,000 per calendar year in minimum fees in the aggregate (for 100 or more channels or stations). The minimum fee payable under 17 U.S.C. 112 is deemed to be included within the minimum fee payable under 17 U.S.C. 114. Upon payment of the minimum fee, the Commercial Webcaster will receive a credit in the amount of the minimum fee against any royalty fees payable in the same calendar year.

(2) *Noncommercial Webcasters*. Each Noncommercial Webcaster will pay an annual, nonrefundable minimum fee of \$500 for each calendar year or part of a calendar year of the license period during which they are Licensees pursuant to licenses under 17 U.S.C. 114. This annual minimum fee is payable for each individual channel and each individual station maintained by Noncommercial Webcasters and is also payable for each individual Side Channel maintained by Broadcasters who are Licensees. The minimum fee payable under 17 U.S.C. 112 is deemed to be included within the minimum fee payable under 17 U.S.C. 114. Upon payment of the minimum fee, the Licensee will receive a credit in the amount of the minimum fee against any additional royalty fees payable in the same calendar year.

Dated: February 2, 2010.

**James Scott Sledge,**

*Chief U.S. Copyright Royalty Judge.*

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**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 74**

**RIN 2900–AM78**

**VA Veteran-Owned Small Business Verification Guidelines**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule with request for comments.

**SUMMARY:** This document affirms as final, with changes, an interim final rule that implements portions of the Veterans Benefits, Health Care, and Information Technology Act of 2006. This law requires the Department of Veterans Affairs (VA) to verify ownership and control of veteran-owned small businesses, including service-disabled veteran-owned small businesses, including service-disabled veteran-owned small businesses. This final rule defines the eligibility requirements for businesses to obtain “verified” status, explains examination procedures, and establishes records retention and review processes. The final rule retains the interim final rule with changes based on the comments received. This document additionally implements new interim final requirements, that eligible owners work full-time in the business for which they have applied for acceptance in the Verification Program, changes the time period for issuance of reconsideration decisions from 30 to 60 days, and changes the distribution of profits for limited liability companies and employee stock ownership plans and solicits comments on these regulatory amendments only.

**DATES:** *Effective Date:* February 8, 2010.

*Comment Date:* Comments on the interim final amendments only must be received on or before March 10, 2010.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to RIN 2900–AM78—“VA Veteran-Owned Small Business Verification Guidelines.” Copies of comments received will be available for public inspection in the

Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Gail Wegner, Acting Director, Center for Veterans Enterprise (00VE), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, phone (202) 303–3260 x5239.

**SUPPLEMENTARY INFORMATION:**

In an interim final rule published in the **Federal Register** on May 19, 2008 (73 FR 29024), we established new 38 CFR part 74 setting forth a mechanism for verifying ownership and control of veteran-owned small businesses (VOSBs), including service-disabled veteran-owned small businesses (SDVOSBs). We provided a 60-day comment period which ended on July 18, 2008. We received comments from five commenters. The issues raised in the comments are discussed below. Based on the rationale set forth in the interim final rule and in this document, we are adopting the provisions of the interim final rule as a final rule with changes explained below. Due to the nature of the changes and for the convenience of the reader, the regulation text portion of this document restates all of revised part 74.

a. *Eligibility of surviving spouses.* One commenter expressed the opinion that a surviving spouse of a veteran who had any disability rating should be permitted to maintain a VOSB or a SDVOSB for as long as the spouse owns and controls the business.

The rule is consistent with Congress’s limitation set forth in 38 U.S.C. 8127(h)(3), which permits the surviving spouse to maintain the status of a VOSB or SDVOSB only if the veteran was rated as 100 percent disabled or the veteran dies as a result of a service-connected disability. VA does not have authority under section 8127 to expand VOSB or SDVOSB status as the commenter suggests. We will not make any changes to the rule based on the comment.

b. *Yearly verification.* One commenter suggested that an annual signed statement by the veteran business owner stating there are no changes in ownership or control should be sufficient to protect the Department’s interests. If ownership or control changes, it should be mandated that the business owner report it immediately to