

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 M16475.1D, 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 involves the establishment of a safety zone.

An environmental analysis checklist and a categorical exclusion determination are 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.T11-392 to read as follows:

#### § 165.T11-392 Safety Zone; Havasu Landing Regatta, Colorado River, Lake Havasu Landing, CA.

(a) *Location.* The limits of the safety zone will be the navigable waters of Lake Havasu bounded by the following coordinates: from the California shoreline in position 34°29.40' N 114°24.12' W to the northern corner 900 yards east in position 34°29.40' N 114°23.39' W to the southern corner 1,400 yards south in position 34°29.0' N 114°23.39' W to the California shoreline in position 34°29.0' N 114°24.12' W.

(b) *Enforcement Period.* This section will be in effect from 8 a.m. on February 19th to 4 p.m. on February 20, 2011. It will be enforced from 8 a.m. to 4 p.m. each day (February 19, 2011 and February 20, 2011). If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section:

*Designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: February 3, 2011.

T.H. Farris,

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

[FR Doc. 2011-3566 Filed 2-16-11; 8:45 am]

**BILLING CODE 9110-04-P**

#### LIBRARY OF CONGRESS

#### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2009-4]

#### Administration of Copyright Office Deposit Accounts

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Office is amending its regulations to set the minimum level of activity required to hold a deposit account at 12

transactions per year; require deposit account holders to maintain a minimum balance in that account; require the closure of a deposit account the second time it is overdrawn within any 12-month period; and offer deposit account holders the option of automatic replenishment of their account via their bank account or credit card.

**DATES:** *Effective Date:* May 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Tanya Sandros, Deputy General Counsel or Chris Weston, Attorney Advisor. Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366. All prior **Federal Register** notices and public comments in this docket are available at <http://www.copyright.gov/docs/deposit-acct/eservice/>.

#### SUPPLEMENTARY INFORMATION:

#### Deposit Account Background

The Copyright Office maintains a system of deposit accounts for those who frequently use its services. An individual or entity may establish a deposit account, make advance deposits into that account, and charge copyright fees against the balance instead of sending separate payments with applications and other requests for services. This process has proven to be more efficient and less expensive for both the Office and the applicant than sending separate payments to the Copyright Office for each application for registration or for other services.

The goal of this Final Rule is to solve the problems associated with the suspension of paper registration applications for lack of deposit account funds. As explained in the October 8, 2010 **Federal Register** Notice of Proposed Rulemaking (75 FR 62345), when the deposit account being used for payment has insufficient funds to process a paper application, the Copyright Office suspends processing of the application to notify the account holder that replenishment of the account is needed, and places the pending application and associated deposit copies in temporary storage. The suspended applications, which may number 3,000 or more at any one time, must be reviewed regularly by Office staff to locate those that are newly funded and reprocess them. Thus, insufficient deposit account funding effectively doubles—at a minimum—the time Office staff must spend processing an application, time that would otherwise be more profitably spent on processing properly filed claims.

On average, one to three percent of paper applications for registration are suspended each year due to lack of

sufficient deposit account funds. In fiscal 2010, between 6,000 and 7,000 applications were carried on hold monthly for insufficient deposit account funds. The Office has expended substantial resources managing these suspended applications and deposits. While the Office assesses service charges for deposit account overdrafts (\$165) and dishonored deposit account replenishment checks (\$85), *see* 37 CFR 201.3(d), these penalties do not recover all costs or solve the fundamental problems associated with the additional handling and the delay in processing underfunded applications for registration.

### First Notice of Proposed Rulemaking and Public Comments

On July 14, 2009, the Copyright Office published a notice of proposed rulemaking (NPRM) in the **Federal Register**, 74 FR 33930, proposing that the problem of insufficient deposit account funds for paper applications should be solved by requiring all deposit account holders to file their applications via eService, the Office's electronic registration system. An application for registration made via eService cannot be completed until the method of payment is verified by, for example, ensuring that sufficient funds are present in the deposit account and payment has been made. This approach would have been much more efficient than filing paper applications, which must go through a number of processing steps before the validity of the proffered method of payment can be ascertained. In addition, the proposal noted that electronic registration benefits applicants in that it offers a lower fee than paper registrations (\$35 instead of \$65) and helps to establish an earlier effective date of registration.

The July 2009 NPRM garnered six public comments, three of which supported the electronic filing requirement and three of which opposed it. Most notably, the Motion Picture Association of America (MPAA) challenged the initial proposed rule as premature and suggested an alternative whereby each deposit account holder would be charged an up-front \$100 fee that would be held as a kind of security deposit with which to dispose of underfunded registration applications. MPAA comment 2009 at 2. According to the MPAA proposal, if an applicant has insufficient funds in its deposit account to pay for a paper application, the Copyright Office should close the deposit account and use the security deposit to pay for returning the application to the applicant. The MPAA argued that rights-holders should not be

denied the option of continuing to use paper applications because of the actions of "irresponsible" deposit account holders. *See* MPAA comment 2009 at 4.

The MPAA and two other commenters also expressed skepticism with the efficiency and security of the eService system. A full discussion of these issues appears in the Office's October 8, 2010 NPRM.

The Copyright Office carefully considered each of the comments submitted in response to the July 9, 2009 NPRM, and was persuaded that mandatory electronic application was not the most appropriate solution to its problem of underfunded paper applications. While the Office still felt strongly that electronic registration is more efficient than paper registration, and redounds to the benefit of applicants as much as to the benefit of the Office, it concluded that mandatory electronic registration was an overbroad solution to the specific problems described. *See* 75 FR 62345, 62347–8. The final rule requiring a minimum deposit account balance and optional automatic replenishment discussed herein is a more targeted response to the problems facing the Office.

### Second Notice of Proposed Rulemaking; Comments; Final Rule

After considering the comments filed in response to the July 2009 NPRM, the Copyright Office explored other options for addressing its problems with underfunded deposit accounts and in October 2010 proposed a number of administrative requirements to solve the problem. The Office received two comments favorable to the proposal—from Author Services, Inc. and the MPAA—and has decided to adopt the proposed regulatory amendments with two alterations. Specifically, the Office is amending its regulations to (1) Set the minimum level of activity required to hold a deposit account at 12 transactions per year; (2) require deposit account holders to maintain a minimum balance in that account; (3) mandate the closure of a deposit account the second time it is overdrawn within any 12-month period; and (4) offer deposit account holders the option of automatic replenishment of their account via their bank account or credit card.

#### 1. Mandatory Minimum Deposit Account Activity and Balance

The Deposit Account regulation—37 CFR 201.6(b)—currently reads, "Persons or firms having a considerable amount of business with the Copyright Office may, for their own convenience, prepay

copyright expenses by establishing a Deposit Account."

The words "a considerable amount of business" will be replaced by "12 or more transactions a year" in order to more clearly delineate the intended users of the deposit account program. The program's goal is to better serve rights-holders who engage in regular, multiple registrations and other transactions with the Copyright Office every year, and the new language reflects this intent with specificity. The 12 transaction minimum is also consistent with prior Copyright Office policy and conforms to the typical minimum level of activity of current deposit account holders.

The Office is also instituting a requirement that every deposit account holder must establish, in consultation with the Copyright Office, a minimum balance for its deposit account. Ideally, this balance will be the lowest amount a deposit account holder can have in his or her account and still be able to pay for the regular number of copyright registration applications. This amount will be set collaboratively so that both the account holder and the office are comfortable that it will be sufficient for the account holder's expected activity. However, each account must have at least a minimum balance of \$450.

In the event a deposit account goes below its minimum balance, the Copyright Office will automatically notify the account holder of this situation. The minimum balance requirement is intended to act primarily as an indicator to the account holder that the account may need replenishment; going below a minimum balance will not in itself expose the account holder to any adverse consequences.

#### 2. Consequences of Overdrawing a Deposit Account

Upon the second occasion that a deposit account is overdrawn—meaning the second time there is not enough money in an account to pay the fee for a submitted registration—the account will be closed. The MPAA, in its comment on the October 2010 notice, inquired "whether it might be appropriate to specify some time period during which two overdrafts would result in the closure of a deposit account." MPAA comment 2010 at 2. The Copyright Office finds merit in this suggestion, and is adding a proviso that, in order to result in account closure, both overdrafts must occur within the span of 12 months. This addition will help ensure that the penalty for two overdrafts affects only habitual abusers. Additionally, the overdraft rule in

practice will only affect deposit account holders who use paper applications, because eService will not allow an application to be submitted without sufficient funds.

However, a deposit account holder whose account is closed because it has been overdrawn twice is not foreclosed from using a deposit account in the future. The deposit account holder may re-open the closed account on the condition that it is funded through the automatic replenishment option. This requirement is to protect the account holder from the risk of overdrawing again and to protect the Copyright Office from the expense of handling suspended applications in the future.

### 3. Voluntary Automatic Replenishment

The Copyright Office will offer a voluntary automatic replenishment program to all deposit account holders. Under this program, the deposit account holder may provide pre-authorization to the Copyright Office to replenish the account from the account holder's credit card or bank account. Replenishment will take place when the deposit account goes below its minimum balance, at which time the Office will immediately notify the account holder that the account has fallen below the minimal balance and that the account will be replenished in accordance with the automatic replenishment agreement. The account holder will determine the amount of replenishment at the time the account holder enters the program.

#### Comments Received in Response to Question Regarding the Continued Availability of Deposit Accounts

In its July 15th, 2009 NPRM, the Copyright Office sought public comment on whether it should cease offering deposit accounts altogether. It noted that, in an era when paper applications and payment via check were the norm, a separate, simplified deposit account system presented attractive efficiencies to frequent applicants and to the Office. It also pointed out that in an era of electronic registration and payment via corporate or other credit cards, the administrative costs of maintaining a separate deposit account system are no longer clearly offset by its advantages; hence, the reason for the Office's inquiry concerning abolition of the deposit account system.

Three of the four commenters who addressed this question argued that eliminating deposit accounts would be harmful. Thus, the Copyright Office acknowledged in its October 8, 2010 notice that deposit accounts remain a useful and efficient option for copyright

owners who frequently use its services, including, but not limited to, registration, and announced that it will continue to offer deposit accounts for the foreseeable future, reserving its prerogative to revisit the question of their utility and cost to the Office at a later time.

At this time, the Office also notes that the change in policy for administering Deposit Accounts will increase the effectiveness and efficiency of the system for the Office and eliminate most of the problems that generated the initial questions. Hence, in light of the comments from the rights-holders and the new amendments announced today, the Office will continue to offer Deposit Accounts.

#### List of Subjects in 37 CFR Part 201

Copyright, General provisions.

#### Final Regulation

In consideration of the foregoing, the Copyright Office amends 37 CFR Ch. II as follows:

#### PART 201—GENERAL PROVISIONS

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

**Authority:** 17 U.S.C. 702, 708(c).

■ 2. In § 201.6, revise paragraph (b) to read as follows:

#### § 201.6 Payment and refund of Copyright Office fees.

\* \* \* \* \*

(b) *Deposit accounts.* (1) Persons or firms having 12 or more transactions a year with the Copyright Office may prepay copyright expenses by establishing a Deposit Account. The Office and the Deposit Account holder will cooperatively determine an appropriate minimum balance for the Deposit Account which, in no case, can be less than \$450, and the Office will automatically notify the Deposit Account holder when the account goes below that balance.

(2) The Copyright Office will close a Deposit Account the second time the Deposit Account holder overdraws his or her account within any 12-month period. An account closed for this reason can be re-opened only if the holder elects to fund it through automatic replenishment.

(3) In order to ensure that a Deposit Account's funds are sufficiently maintained, a Deposit Account holder may authorize the Copyright Office to automatically replenish the account from the holder's bank account or credit card. The amount by which a Deposit Account will be replenished will be determined by the deposit account

holder. Automatic replenishment will be triggered when the Deposit Account goes below the minimum level of funding established pursuant to paragraph (b)(1) of this section, and Deposit Account holders will be automatically notified that their accounts will be replenished. Funding through automatic replenishment is required if a Deposit Account holder, who has had an account closed because it has been overdrawn twice within any 12 month period, wishes to re-open the account.

\* \* \* \* \*

Dated: February 7, 2011.

**Maria Pallante,**

*Acting Register of Copyrights.*

Approved by

**James H. Billington,**

*The Librarian of Congress.*

[FR Doc. 2011-3598 Filed 2-16-11; 8:45 am]

**BILLING CODE 1410-30-P**

## POSTAL SERVICE

### 39 CFR Part 111

#### New Customs Declarations Label Requirements

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is revising the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) 608.2.4 to require all mailpieces containing goods that enter the Customs Territory of the United States (CTUS), from outside the CTUS, to bear a customs declaration label. Additionally, the Postal Service updates the standards for items weighing 16 ounces or more when sent to, from, or between, and in some circumstances, within certain U.S. territories, possessions, and Freely Associated States.

**DATES:** *Effective Date:* June 6, 2011.

**FOR FURTHER INFORMATION CONTACT:** Rick Klutts at 813-877-0372.

**SUPPLEMENTARY INFORMATION:** Consistent with the Code of Federal Regulations, Title 19, Part 145—U.S. Customs and Border Protection, Department of Homeland Security, the Postal Service will require that all mailpieces containing goods that enter the CTUS, from outside the CTUS, to bear a customs declaration label. In addition, to ensure compliance with safety and security requirements of the United States Postal Inspection Service®, we are updating our standards for items weighing 16 ounces or more (regardless