

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### H. Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive order 12988, Civil Justice Reform to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

#### 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0987 to read as follows:

#### 165.T05–0987 Safety Zone, James River; Newport News, VA.

(a) *Definitions.* For the purposes of this section—

*Captain of the Port* means the Commander, Sector Hampton Roads.

*Participants* mean individuals and vessels involved in explosives training.

*Representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: All waters in the vicinity of the of the James River Reserve Fleet, in the James River, within a 1500-foot radius of the M/V SS DEL MONTE in approximate position 37°06'11" N., 076°38'40" W. (NAD 1983).

(c) *Regulations.*

(1) The general regulations governing safety zones in § 165.23 apply to the area described in paragraph (b) of this section.

(2) With the exception of participants, entry into or remaining in this safety zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(3) All vessels within this safety zone when this section becomes effective must depart the zone immediately.

(4) The Captain of the Port, Hampton Roads or his representative can be contacted at telephone number (757) 668–5555.

(5) The Coast Guard and designated security vessels enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(6) This section applies to all persons or vessels except participants and vessels that are engaged in the following operations:

- (i) Enforcing laws;
- (ii) Servicing aids to navigation, and
- (iii) Emergency response vessels.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by federal, state, and local agencies.

(e) *Enforcement Period.* This rule will be enforced from 8 a.m. on December 12, 2016, through 4 p.m. on December 16, 2016.

Richard J. Wester,

*Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

[FR Doc. 2016–29840 Filed 12–12–16; 8:45 am]

**BILLING CODE 9110–04–P**

### 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:** Final rule; amendment.

**SUMMARY:** On August 10, 2016, the Copyright Royalty Judges (Judges) published in the **Federal Register** for comment proposed amendments to regulations governing reporting requirements for noncommercial webcasters, including noncommercial educational webcasters, that pay no more than the minimum fee for their use of sound recordings under the applicable statutory licenses. The Judges received three comments. The Judges hereby publish the final rule.

**DATES:** Effective December 13, 2016.

*Applicability Date:* May 19, 2016.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Whittle at (202) 707–7658 or at [crb@loc.gov](mailto:crb@loc.gov).

### SUPPLEMENTARY INFORMATION:

#### Introduction

In 2009, the Copyright Royalty Judges (Judges) published regulations concerning reporting requirements for webcasters streaming sound recordings under statutory licenses described in 17 U.S.C. 112 and 114. *See* 79 FR 25009. On June 21, 2016, the Judges published a technical amendment to the regulations. 81 FR 40190. Later that same day, the Judges received a Joint Petition of the National Association of Broadcasters and the National Religious Broadcasters Noncommercial Music License Committee (together, Broadcasters) to Amend Final Rule Regarding Reporting Requirements (Joint Motion).

The Broadcasters contended that by removing the definition of “Minimum Fee Broadcaster” the Judges had failed to effect their intent. Joint Motion at 7. The Judges agreed that the regulation as amended on June 21, 2016, did not effect their intent because it defined the term “Eligible Minimum Fee Webcaster” too narrowly and therefore arguably excluded the webcasts of noncommercial minimum fee broadcasters, a category that the Judges had intended to include. Accordingly, on August 10, 2016, the Judges proposed a second amendment to the regulations and published it for comment. 81 FR 52782.

The Broadcasters filed a joint comment supporting adoption of the proposed second amendment to the regulations. The Intercollegiate Broadcasting System (IBS), which had appealed the prior iterations of the regulations to the U.S. Court of Appeals for the D.C. Circuit, filed a comment that included the following language.

Given the limited scope of the Notice and without prejudice to its objections to the \$500 annual fee, the \$100 opt-out fee, and the reporting requirements, IBS interposes no objection to the Notice.

IBS Comment at 2. The Judges interpret that comment as not opposing the proposed second amendment.<sup>1</sup>

#### List of Subjects in 37 CFR Part 370

Copyright.

#### Final regulations

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

<sup>1</sup> A third comment was filed by Adam Stein, but the Judges found it to be an unreasonable objection as Mr. Stein offered no support for his allegations, which appeared to be based upon a fundamental misunderstanding of compulsory licenses.

**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. Amend § 370.4 in paragraph (b) by revising 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.

\* \* \* \* \*

Dated: November 15, 2016.

**Suzanne M. Barnett,**  
Chief Copyright Royalty Judge.

Approved:

**Carla D. Hayden,**  
Librarian of Congress.

[FR Doc. 2016–29761 Filed 12–12–16; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R03–OAR–2016–0455; FRL–9956–41–Region 3]

**Determination of Attainment of the 2012 Annual Fine Particulate Matter Standard; Pennsylvania; Delaware County Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is making a final determination that the Delaware County, Pennsylvania moderate nonattainment area (the Delaware County Area) has attained the 2012 annual fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standard (NAAQS). This determination of attainment, also known as a clean data determination, is based upon quality assured, certified, and complete ambient air quality monitoring data showing that this area has monitored attainment of the 2012 annual PM<sub>2.5</sub> NAAQS based on the 2013–2015 data available in EPA’s Air Quality System (AQS) database. As a result of this determination, the requirements for the Delaware County Area to submit an attainment demonstration, associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning state implementation plan (SIP) revisions related to attainment of the standard shall be suspended for so long as the area continues to meet the 2012 annual PM<sub>2.5</sub> NAAQS. This action is being taken under the Clean Air Act (CAA).

**DATES:** This rule is effective on February 13, 2017 without further notice, unless EPA receives adverse written comment by January 12, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0455 at <http://www.regulations.gov>, or via email to [pino.maria@epa.gov](mailto:pino.maria@epa.gov). For comments submitted at [www.regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be

confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Gavin Huang, (215) 814–2042, or by email at [huang.gavin@epa.gov](mailto:huang.gavin@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On December 14, 2012, EPA promulgated a revised primary annual PM<sub>2.5</sub> NAAQS to provide increased protection of public health from fine particle pollution (the 2012 PM<sub>2.5</sub> NAAQS). 78 FR 3086 (January 15, 2013). In that action, EPA strengthened the primary annual PM<sub>2.5</sub> standard, lowering the level from 15.0 micrograms per cubic meter (mg/m<sup>3</sup>) to 12.0 mg/m<sup>3</sup>. The 2012 PM<sub>2.5</sub> NAAQS is attained when the 3-year average of the annual arithmetic means does not exceed 12.0 mg/m<sup>3</sup>. See 40 CFR 50.18. On December 18, 2014 (80 FR 2206), EPA made designation determinations, as required by CAA section 107(d)(1), for the 2012 PM<sub>2.5</sub> NAAQS. In that action, EPA designated the Delaware County Area as moderate nonattainment for the 2012 annual PM<sub>2.5</sub> NAAQS. See 40 CFR 81.339.

Under EPA’s longstanding Clean Data Policy,<sup>1</sup> which was codified in EPA’s Clean Air Fine Particulate Implementation Rule (72 FR 20586, April 25, 2007), EPA may issue a determination of attainment after notice and comment rulemaking determining that a specific area is attaining the relevant standard. See 40 CFR 51.1004. The effect of a clean data determination is to suspend the requirement for the area to submit an attainment demonstration, RACM, RFP plan, contingency measures, and any other planning SIPs related to attainment for

<sup>1</sup> “Clean Data Policy for the Fine Particle National Ambient Air Quality Standards,” Memorandum from Stephen D. Page, December 14, 2004.