

Original amendment submission date	Date of final publication	Citation/description
June 16, 1999 .....	9-20-99	Definitions; Purposes of the state reclamation program; Identification of eligible lands and water; Ranking and selection procedures; Coordination of reclamation work; Acquisition management and disposition of land and water; Reclamation on private land; Rights of entry; Public participation; Organizational structure; Personnel and staffing policies; Purchasing and procurement systems; Management accounting; and Abandoned mine land problem description.

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD07-99-063]

RIN 2115-AE46

#### Special Local Regulations; Biscayne Bay, Miami, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

**SUMMARY:** Temporary Special Local Regulations are being adopted for the Columbus Day Regatta. The event will be held in Biscayne Bay from 9 a.m. to 5 p.m. Eastern Daylight Time (EDT) on October 9 and 10, 1999. These regulations are needed to provide for the safety of life on navigable waters during the event.

**DATES:** These regulations become effective at 9 a.m. and terminate at 5 p.m. EDT each day on October 9 and 10, 1999.

**FOR FURTHER INFORMATION CONTACT:** BM1 J. P. Storey Coast Guard Group Miami, Florida at (305) 535-4472.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

Columbus Day Regatta, Inc., is sponsoring a sail boat race, with approximately 500 sailboats, ranging in length from 20 to 60 feet participating in the event. The race will take place in Biscayne Bay from Dinner Key to Soldier Key on October 9 and 10, 1999. There will also be approximately fifty (50) spectator craft. These regulations are intended to promote safe navigation on the waters of Biscayne Bay by controlling the traffic entering, exiting, and traveling within the regulated area.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations. Following normal rulemaking procedures would have been

impracticable, as there was not sufficient time remaining after the receipt of the permit request to publish proposed rules in advance of the event or to provide for a delayed effective date.

#### Regulatory Evaluation

This regulation 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. The Office of Management and Budget has exempted it from review 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 policies and procedures of DOT is unnecessary. Entry into the regulated area is prohibited for only approximately 8 hours each day of the event and the regulated area does not block any channels.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities, as the regulations will only be in effect a total of two days in areas of limited commercial traffic.

#### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined under Figure 2-1, paragraph 34(h) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation.

#### List of Subjects in 33 CFR Part 100

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

Temporary Regulations: In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, 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. Add temporary § 100.35T-07-063 to read as follows:

##### § 100.35T-07-063 Columbus Day Regatta Sail Boat Race, Miami, FL

(a) *Regulated Area:* A regulated area is established for the race by joining the following points (All coordinates referenced use Datum NAD:83):

- (1) 25°43'399"N, 080°12'500"W
- (2) 25°43'399"N, 080°10'500"W
- (3) 25°33'000"N, 080°11'500"W
- (4) 25°33'000"N, 080°15'900"W
- (5) 25°40'000"N, 080°15'000"W.

(b) *Special local regulations.*

(1) Entry into the regulated area by other than event participants is prohibited unless otherwise authorized by the Patrol Commander. At the completion of scheduled races and exhibitions, and departure of participants from the regulated areas,

traffic may resume normal operations. At the discretion of the Patrol Commander, between scheduled racing events, traffic may be permitted to resume normal operations.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any and all vessels to take immediate steps to avoid collision. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(3) Spectators are required to maintain a safe distance from the racecourse at all times.

(c) *Dates.* This section is effective at 9 a.m. and terminates at 5 p.m. EDT each day on October 9 and 10, 1999.

Dated: September 3, 1999.

**G.W. Sutton,**

*Captain U.S. Coast Guard, Acting  
Commander, Seventh Coast Guard District.*  
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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 99-5A]

#### Notice and Recordkeeping for Nonsubscription Digital Transmissions

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

**ACTION:** Interim rule amendment.

**SUMMARY:** To adjust for changes brought about by the passage of the Digital Millennium Copyright Act of 1998, the Copyright Office of the Library of Congress is amending the regulation that requires the filing of an initial notice of digital transmissions of sound recordings under statutory license with the Copyright Office.

**EFFECTIVE DATE:** September 20, 1999.

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

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 1, 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA"), Public Law 104-39, 109 Stat. 336 (1995). The DPRA gave to sound recording copyright owners an exclusive right to perform their works publicly by

means of a digital audio transmission. 17 U.S.C. 106(6). The new right, however, was subject to certain limitations, including exemptions for certain digital transmissions, 17 U.S.C. 114(d)(1), and the creation of a statutory license for nonexempt digital subscription services. 17 U.S.C. 114(d)(2).

The statutory license requires adherence to regulations under which copyright owners may receive reasonable notice of use of their sound recordings under the statutory license, and under which entities performing the sound recordings shall keep and make available records of such use. 17 U.S.C. 114(f)(2). On May 13, 1996, the Copyright Office initiated a rulemaking proceeding to promulgate regulations to govern the notice and recordkeeping requirements. 61 FR 22004 (May 13, 1996). This rulemaking concluded with the issuance of interim rules governing the filing of an initial notice of digital transmissions of sound recordings under the statutory license, 37 CFR 201.35, and the filing of reports of use of sound recordings under statutory license, 37 CFR 201.36. *See* 63 FR 34289 (June 24, 1998).

At the time these regulations were issued, only three noninteractive, subscription, digital transmissions services (DMX, Inc., Digital Cable Radio Associates/Music Choice, and Muzak, Inc.)<sup>1</sup> were in operation and considered eligible for the license. Consequently, the Office prescribed a period for filing initial notices which required any service already operating in accordance with the section 114 license to submit its notice within 45 days of the effective date of the regulation. Section 201.35(f) reads, in part, as follows: "A Service shall file the Initial Notice with the Licensing Division of the Copyright Office prior to the first transmission of sound recordings under the license, or within 45 days of the effective date of this regulation." (Emphasis added).

Subsequently, the President signed into law the Digital Millennium Copyright Act of 1998 ("DMCA"). Among other things, the DMCA expanded the section 114 compulsory license to allow a nonexempt, eligible nonsubscription transmission service and a preexisting satellite digital audio radio service to perform publicly a sound recording by means of certain digital audio transmissions, subject to compliance with notice and recordkeeping requirements. 17 U.S.C. 114(f).

<sup>1</sup> These services were incorrectly identified in the August 4, 1999, notice as nonsubscription services.

The notice and recordkeeping requirements found in §§ 201.35 and 201.36 would appear to apply to any service eligible for the section 114 license, including those newly eligible to use the license under the amended provisions of the license. However, these regulations provide no opportunity for a newly eligible nonsubscription transmission service which was in service prior to the passage of the DMCA to make a timely filing of its initial notice of transmission. Therefore, the Copyright Office proposed an amendment to § 201.35(f) which would extend the period for filing the initial notice to October 15, 1999, in order to allow the eligible nonsubscription services which were in operation prior to the passage of the DMCA an opportunity to file their initial notice timely. 64 FR 42316 (August 4, 1999).

On September 2, 1999, the Recording Industry of America, Inc. ("RIAA") filed a comment supporting, in general, the Office's proposal to amend the date by which a nonexempt, eligible nonsubscription service already in operation could file a timely initial notice. RIAA expressed concern, however, that the proposed language is overly broad and would allow not only the newly eligible nonsubscription services an opportunity to file an initial notice timely, but inadvertently extend the filing period for any preexisting digital subscription services which had not filed in accordance with the original rule. To avoid any confusion on this point, the Office is amending the rule to indicate that any subscription service in operation prior to September 3, 1998, had until that date to file its initial notice with the Copyright Office, in addition to establishing an October 15, 1999, filing deadline for any eligible, nonsubscription service which is currently in operation. Of course, any new service which chooses to make use of the license may file its initial notice after these dates, so long as the service files its initial notice with the Licensing Division prior to the first transmission of a sound recording.

#### Regulatory Flexibility Act

Although the Copyright Office, located in the Library of Congress which is part of the legislative branch, is not an "agency" subject to the Regulatory Flexibility Act, 5 U.S.C. 601-612, the Register of Copyrights has considered the effect of the amendment on small businesses. The Register has determined that the amendment would not have a significant economic impact on a substantial number of small entities that would require provision of special relief