

(7) Persons who hold a valid "Vessel Security Officer" endorsement may serve as vessel or company personnel with security duties (33 CFR 104.220), and as all other vessel personnel (33 CFR 104.225), without meeting any additional requirements.

#### TITLE 46 CFR—SHIPPING

##### PART 10—LICENSING OF MARITIME PERSONNEL

■ 3. The authority citation for part 10 continues to read as follows:

**Authority:** 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, and 8906; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

■ 4. In § 10.104, add the definition of Vessel Security Officer in alphabetical order to read as follows:

##### § 10.104 Definitions of terms used in this part.

\* \* \* \* \*

*Vessel Security Officer (VSO)* means a person onboard the vessel accountable to the Master, designated by the Company as responsible for security of the vessel, including implementation and maintenance of the Vessel Security Plan, and for liaison with the Facility Security Officer and vessel's Company Security Officer.

\* \* \* \* \*

■ 5. Add § 10.811 to read as follows:

##### § 10.811 Requirements to qualify for an STCW endorsement as vessel security officer.

(a) The applicant for an endorsement as vessel security officer must present satisfactory documentary evidence in accordance with the requirements in 33 CFR 104.215.

(b) All applicants for an endorsement must meet the physical examination requirements in § 10.205(d)(1)–(2) of this chapter.

##### PART 15—MANNING REQUIREMENTS

■ 6. The authority citation for part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906, 9102, and 8103; and Department of Homeland Security Delegation No. 0170.1.

■ 7. Amend § 15.301 by adding paragraph (b)(10) and revising paragraph (b)(11) to read as follows:

##### § 15.301 Definitions of terms used in this part.

\* \* \* \* \*

(b) \* \* \*

(10) GMDSS radio operator; and

(11) Vessel Security Officer.

\* \* \* \* \*

■ 8. In § 15.1101, add paragraph (a)(6) to read as follows:

##### § 15.1101 General.

(a) \* \* \*

(6) *Vessel Security Officer (VSO)* means a person onboard the vessel accountable to the Master, designated by the Company as responsible for security of the vessel, including implementation and maintenance of the Vessel Security Plan, and for liaison with the Facility Security Officer and vessel's Company Security Officer.

\* \* \* \* \*

■ 9. Add § 15.1113 to read as follows:

##### § 15.1113 Vessel Security Officer (VSO).

After July 1, 2009, on board seagoing vessel, all persons performing duties as VSO must hold a valid endorsement as Vessel Security Officer.

Dated: May 6, 2008.

**Brian M. Salerno,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.*

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#### LIBRARY OF CONGRESS

##### Copyright Office

##### 37 CFR Parts 201

[Docket No. RM 2008–5]

##### Late-Filed and Underpaid Royalties

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

**ACTION:** Final rule.

**SUMMARY:** The Copyright Office is amending its rules governing the payment of interest on late or underpaid royalty fees under the Copyright Act to clarify when interest for late and underpayments is due in light of the Copyright Office's electronic funds transfer requirement. In addition, the Copyright Office amends the rules to add text that was inadvertently deleted by a previous rulemaking action. The Copyright Office also makes a technical correction to its satellite carrier requirements to recognize changes made to Section 119 in 2004.

**EFFECTIVE DATE:** May 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ben Golant, Assistant General Counsel, and Tanya M. Sandros, General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

**SUPPLEMENTARY INFORMATION:** On August 10, 2006, the Copyright Office published a final rule requiring the submission of royalty fees to be made by electronic funds transfer ("EFT"). 71 FR 45739 (August 10, 2006). The purpose of this notice is to make technical amendments to Section 201.17(i) and other similar rules for satellite carriers and digital audio recording technologies to clarify when interest accrues for late and underpayments in light of the recent EFT requirement. In addition, we intend to re-insert regulatory text, originally contained in Section 201.17(i)(2), that was incorrectly deleted from Title 37 CFR when the EFT requirements were adopted.

##### I. Electronic Funds Transfer Requirement

Under the new EFT regulations, 37 CFR 201.17(i), a number of changes were made regarding the payment of copyright royalties. The most important change was that payment could only be made through an electronic funds transfer. This change eliminates the options of payment by certified or cashier's check, or money order. Most payors already use EFTs, and requiring the use of EFTs substantially enhances the efficiency of the collection process. The regulations also require that the parties submit specific identifying and linking information as part of the EFT, and/or as part of a "remittance advice" which accompanies Statement(s) of Account, and that the "remittance advice" be faxed or emailed to the Licensing Division. Failure to submit the EFT in accordance with the rules may require the remitter to resubmit the EFT correctly. Should this occur, the remitter will be responsible for any assessed interest charge that accrues as a result of a late payment or an underpayment.

The rules now include a waiver provision for those situations where there may be circumstances which make it virtually impossible for a remitter to use the electronic payment option or imposes a financial or other hardship. Requests for a waiver must include a statement setting forth the reasons why the waiver should be granted and the statement must be signed by a duly authorized representative of the entity making the payment, certifying that the

information provided is true and correct.

## II. Proposed Amendments

Section 201.17(c)(1) states that:

Statements of Account shall cover semiannual accounting periods of (i) January 1 through June 30, and (ii) July 1 through December 31, and shall be deposited in the Copyright Office, together with the total royalty fee for such accounting periods . . . by not later than the immediately following August 29, if the Statement of Account covers the January 1 through June 30 accounting period, and by not later than the immediately following March 1, if the Statement of Account covers the July 1 through December 31 accounting period.

Section 201.17(i)(2) (before it was deleted) stated that:

Royalty fee payments submitted as a result of late or amended filings shall include interest. Interest shall begin to accrue beginning on the first day after the close of the period for filing statements of account for all underpayments of royalties for the cable compulsory license occurring within that accounting period. The accrual period shall end on the date appearing on the certified check, cashier's check, money order or electronic payment submitted by a cable system, provided that such payment is received by the Copyright Office within five business days of that date. If the payment is not received by the Copyright Office within five business days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

Moreover, Section 201.17(i)(2)(iii) (before it was deleted) stated that "Interest is not required to be paid on any royalty underpayment or late payment from a particular accounting period if the interest charge is less than or equal to five dollars (\$5.00)."

It is important to note that the Copyright Office's regulations concerning interest and accrual vis-a-vis late-filed SOAs for satellite carriers is different than that for cable operators. Section 201.11(i)(1) states:

Royalty fee payments submitted as a result of late or amended filings will include interest. Interest will begin to accrue beginning on the first day after the close of the period for filing statements of account for all underpayments or *late payments* of royalties for the satellite carrier statutory license for secondary transmissions for private home viewing occurring within that accounting period. The accrual period will end on the date appearing on the certified check, cashier's check, money order, or electronic payment submitted by a satellite carrier, provided that such payment is received by the Copyright Office within five business days of that date. If the payment is not received by the Copyright Office within five business days of its date, the accrual period will end on the date of actual receipt by the Copyright Office. (Emphasis added)

The Copyright Office's regulations regarding interest and accrual vis-a-vis

late-filed SOAs for digital audio recording devices is comparable to that for satellite carriers. Section 201.28(l)(1) states:

Royalty payments submitted as a result of *late payments* or underpayments shall include interest, which shall begin to accrue on the first day after the close of the period for filing Statements of Account for all *late payments* or underpayments of royalties occurring within that accounting period. The accrual period for interest shall end on the date appearing on the certified check, cashier's check, money order, or electronic payment submitted by the manufacturing or importing party, if the payment is received by the Copyright Office within five business days of that date. If the payment is not received by the Copyright Office within five business days of its date, the accrual period shall end on the date of actual receipt by the Copyright Office. (Emphasis added)

We note that the five-day language, contained in Section 201.17(i)(2) of the Copyright Office's rules (before it was deleted), does not extend the Statement of Account filing period deadlines. However, the appropriate interest accrual period for late-filed SOAs has been subject to dispute because the "five business day" language of Section 201.17(i)(2) applies, on its face, to underpayments, not to late payments. It has been the Copyright Office's Licensing Division's practice that interest on late payments begins to accrue on the first day after the close of the period for filing statements of account until the date payment is received by the Copyright Office. If the "five business day" language applied in the instance of late payments, which it does not under the practices of the Copyright Office, then the amount of interest due would be less.

Given the facts and circumstances, and the need for clarity and administrative consistency, technical amendments to the existing regulations are appropriate. We propose to amend Section 201.17(i) by adding the phrase "late payments" to the existing regulatory language. In the interest of consistency, this change would make the rule largely parallel to Sections 201.11(i) and 201.28(l). As such, all royalty payments made by EFT must be made the day they are due. Interest will begin to accrue the next day for all late-filed submissions and on royalties that are underpaid. The accrual period ends when a full royalty payment is received by the Copyright Office.

We also propose to modify the "five business day" rule, currently found in all three regulations, and apply it only to those circumstances where a waiver of the EFT rule is granted by the Copyright Office. While the Office has received very few waivers since the EFT

regulations were implemented, we still believe that special provisions concerning royalty payments by check are appropriate. In cases where a waiver is granted, the accrual period ends on the date the mailed payment is postmarked. However, if the payment is not received by the Copyright Office within five business days of its due date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

Finally, Section 201.11(i) is amended to recognize that in 2004, Congress expanded Section 119 to include secondary transmissions to commercial establishments. Satellite Home Viewer Extension and Reauthorization Act of 2004, a part of the Consolidated Appropriations Act of 2004. See Pub. L. No. 108-447, 118 Stat. 3394 (2004) ("Section 107").

### List of Subjects in 37 CFR Part 201

Copyright.

### Proposed Regulation

■ In consideration of the foregoing, the Copyright Office is amending part 201 of 37 CFR, chapter II in the manner 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.

■ 2. Revise § 201.11(i)(1) to read as follows:

#### § 201.11 Satellite carrier statements of account covering statutory licenses for secondary transmissions.

\* \* \* \* \*

(i) \* \* \*

(1) *Interest.* Royalty fee payments submitted as a result of late or amended filings will include interest. Interest will begin to accrue beginning on the first day after the close of the period for filing statements of account for all underpayments or late payments of royalties for the satellite carrier statutory license for secondary transmissions for private home viewing and viewing in commercial establishments occurring within that accounting period. The accrual period shall end on the date the electronic payment submitted by a satellite carrier is received by the Copyright Office. In cases where a waiver of the electronic funds transfer requirement is approved by the Copyright Office, and royalties payments are either late or underpaid, the accrual period shall end on the date the payment is postmarked. If the payment is not received by the Copyright Office within five business

days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

\* \* \* \* \*

■ 3. Amend § 201.17 by adding paragraph (i)(4) to read as follows:

**§ 201.17 Statements of account covering compulsory licenses for secondary transmissions by cable systems.**

\* \* \* \* \*

(i) \* \* \*

(4) Royalty fee payments submitted as a result of late or amended filings shall include interest. Interest shall begin to accrue beginning on the first day after the close of the period for filing statements of account for all late payments and underpayments of royalties for the cable statutory license occurring within that accounting period. The accrual period shall end on the date the electronic payment submitted by a cable operator is received. The accrual period shall end on the date the electronic payment submitted by a satellite carrier is received by the Copyright Office. In cases where a waiver of the electronic funds transfer requirement is approved by the Copyright Office, and royalties payments are either late or underpaid, the accrual period shall end on the date the payment is postmarked. If the payment is not received by the Copyright Office within five business days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

\* \* \* \* \*

■ 4. Revise § 201.28(l)(1) to read as follows:

**§ 201.28 Statements of account for digital audio recording devices or media.**

\* \* \* \* \*

(l) \* \* \*

(1) Royalty payments submitted as a result of late payments or underpayments shall include interest, which shall begin to accrue on the first day after the close of the period for filing Statements of Account for all late payments or underpayments of royalties for the digital audio recording obligation occurring within that accounting period. The accrual period shall end on the date the electronic payment submitted by the remitter is received. In cases where a waiver of the electronic funds transfer requirement is approved by the Copyright Office, and royalties payments are either late or underpaid, the accrual period shall end on the date the payment is postmarked. If the payment is not received by the Copyright Office within five business days of its date, then the accrual period

shall end on the date of the actual receipt by the Copyright Office.

\* \* \* \* \*

Dated: April 30, 2008.

**Marybeth Peters,**

*Register of Copyrights.*

Approved by:

**James H. Billington,**

*The Librarian of Congress.*

[FR Doc. E8-11274 Filed 5-19-08; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

**[EPA-R09-OAR-2008-0435; FRL-8568-3]**

**Designation of Areas for Air Quality Planning Purposes; California; Ventura Ozone Nonattainment Area; Reclassification to Serious**

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

**ACTION:** Final rule.

**SUMMARY:** Effective June 15, 2004, EPA classified the Ventura County ozone nonattainment area as “subpart 2/ moderate” for the 8-hour ozone standard with an attainment date of no later than June 15, 2010. On February 14, 2008, the California Air Resources Board submitted a request for reclassification of the Ventura County ozone nonattainment area from “moderate” to “serious.” Under section 181(b)(3) of the Clean Air Act, EPA is granting California’s request for voluntary reclassification of the Ventura County ozone nonattainment area to “serious” in today’s document.

**DATES:** *Effective Date:* This rule is effective on June 19, 2008.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2008-0435 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:**

Dave Jesson, Air Planning Office (AIR-2), U.S. Environmental Protection

Agency, Region IX, (415) 972-3957, [jesson.david@epa.gov](mailto:jesson.david@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, the terms “we,” “us,” and “our” refer to EPA.

**I. Reclassification of Ventura County to Serious Ozone Nonattainment**

Effective June 15, 2004, we classified the Ventura County ozone nonattainment area under the Clean Air Act (“Act” or CAA) as “subpart 2/ moderate” for the 8-hour ozone national ambient air quality standard (NAAQS). See 69 FR 23858, at 23889 (April 30, 2004); and 40 CFR 81.305. Our classification of Ventura County as a “moderate” ozone nonattainment area establishes a requirement that the area attain the 8-hour ozone NAAQS as expeditiously as practicable, but no later than six years from designation, i.e., June 15, 2010. By letter dated February 14, 2008, the Executive Officer for the California Air Resources Board (CARB) submitted a request to reclassify three California areas designated nonattainment for the 8-hour ozone standard. Ventura was one of the three areas, and for the Ventura County ozone nonattainment area, CARB has requested reclassification from “moderate” to “serious.” We are acting on the request for Ventura in today’s document. In a separate document, we will propose a schedule for required plan submittals for Ventura County under the new classification.

We will also act on the requests for the other two areas listed in CARB’s February 14, 2008 letter, as well as the reclassification requests previously received from CARB for the San Joaquin Valley, South Coast, and Coachella Valley ozone nonattainment areas, in a separate document. We are deferring action on the State’s reclassification requests for the five other areas to allow for notification to, and the opportunity for consultation with, the Indian tribes located within the five areas. No Indian tribes are located within Ventura County. In the separate document, we will also propose schedules for required plan submittals under the new classifications for these areas.

We are reviewing this request as one made pursuant to section 181(b)(3) of the Act which provides for “voluntary reclassification” and states: “The Administrator shall grant the request of any State to reclassify a nonattainment area in that State in accordance with table 1 of subsection (a) of this section to a higher classification. The Administrator shall publish a notice in the **Federal Register** of any such request and of action by the Administrator