

docket where indicated under ADDRESSES.

List of Subjects

33 CFR Part 95

Alcohol and alcoholic beverages, Drugs, Marine safety, Vessels.

33 CFR Part 177

Alcohol and alcoholic beverages, Drugs, Marine safety, Recreational vessels, Unsafe conditions.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 95 and 177 as follows:

SUBCHAPTER F—[AMENDED]

PART 95—OPERATING A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL OR A DANGEROUS DRUG

1. The authority citation for part 95 continues to read as follows:

Authority: 33 U.S.C. 2071; 46 U.S.C. 2302; 49 CFR 1.46.

2. Revise the part heading to read as shown above.

§ 95.001 [Amended]

3. In § 95.001(a), remove the words "intoxication." and "intoxicated" and add, in their place, the words "under the influence of alcohol or a dangerous drug."

4. Amend § 95.010 by adding the following undesignated paragraphs in alphabetical order with the rest of the section as follows:

§ 95.010 Definition of terms as used in this part.

* * * * *

Blood Alcohol Concentration Level means a certain percentage of alcohol in the blood.

* * * * *

State means a State or Territory of the United States of America including but not limited to a State of the United States, American Samoa, the Commonwealth of the Northern Marianas Islands, District of Columbia, Guam, Puerto Rico, and the United States Virgin Islands.

* * * * *

Under the Influence means impaired or intoxicated by a drug or alcohol as a matter of law.

* * * * *

5. Amend § 95.020 by revising the section heading, the introductory text, and paragraph (a) to read as follows:

§ 95.020 Standard for under the influence of alcohol or a dangerous drug.

An individual is under the influence of alcohol or a dangerous drug when:

(a) The individual is operating a recreational vessel and has a blood

alcohol concentration (BAC) level of .08 percent or more, by weight, in their blood;

* * * * *

6. Amend § 95.025 by revising the section heading, and paragraphs (a) and (b) to read as follows:

§ 95.025 Adoption of State blood alcohol concentration levels.

(a) This section applies to operators of recreational vessels on waters within the geographical boundaries of any State that has established by statute a blood alcohol concentration level for purposes of determining whether a person is operating a vessel under the influence of alcohol.

(b) If the applicable State statute establishes a blood alcohol concentration level at which a person is considered or presumed to be under the influence of alcohol, then that level applies within the geographical boundaries of that State instead of the level provided in § 95.020(a) of this part.

* * * * *

§ 95.030 [Amended]

7. Amend § 95.030 by revising the section heading and the introductory text to read as follows:

§ 95.030 Evidence of under the influence of alcohol or a dangerous drug.

Acceptable evidence of when a vessel operator is under the influence of alcohol or a dangerous drug includes, but is not limited to:

* * * * *

§ 95.040 [Amended]

8. In § 95.040, paragraph (a), remove the word "intoxicated" and add, in its place, the words "under the influence of alcohol or a dangerous drug."

PART 177—CORRECTION OF ESPECIALLY HAZARDOUS CONDITIONS

9. The authority citation for part 177 continues to read as follows:

Authority: 46 U.S.C. 4302, 4311; 49 CFR 1.45, and 1.46.

§ 177.07 [Amended]

10. In § 177.07(b), remove the word "intoxicated" and add, in its place, the words "under the influence of alcohol or a dangerous drug."

* * * * *

Dated: March 8, 2000.

Ernest R. Riutta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 00-6224 Filed 3-15-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 141, 142, 143, 144, 145, 146, and 147

[USCG-1998-3868]

RIN 2115-AF39

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Coast Guard is extending the periods for public comment on its notice of proposed rulemaking on Outer Continental Shelf Activities. We received several requests to extend the comment period for an additional 90 days because of the length and complexity of the proposed rulemaking. We are changing the deadline for receipt of comments from April 5, 2000, to July 5, 2000. Also, due to requests submitted both to the Docket Management Facility and to the Office of Management and Budget (OMB), we are changing the deadline for receipt of comments by OMB on the proposed collection-of-information requirements from February 7, 2000, to July 5, 2000.

DATES: Comments and related material must reach the Docket Management Facility on or before July 5, 2000. Comments sent to OMB on collection of information must reach OMB on or before July 5, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following methods:

(1) By mail to the Docket Management Facility, (USCG-1998-3868), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By hand to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

You may also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Mr. James M. Magill, Vessel and Facility Operating Standards Division (G-MSO-2), telephone 202-267-1082 or fax 202-267-4570. For questions on viewing or submitting material to the docket, call Ms. Dorothy Walker, Chief of Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The NPRM, published on December 7, 1999 [64 FR 68416], encouraged interested persons to participate in this rulemaking by submitting written data, views, or arguments by April 5, 2000. It also invited comments on collection of information to be submitted by February 7, 2000. This request does the same, except that it invites their submitting them by July 5, 2000.

Persons submitting comments should include their names and addresses, identify this docket [USCG-1998-3868] and the specific section of the NPRM to which each comment applies, and give the reason for each comment. Please submit one copy of each comment and attachment in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing, to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want acknowledgement of receipt of your comment, enclose a stamped self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this NPRM in view of them.

Dated: March 13, 2000.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00-6546 Filed 3-15-00; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2000-3]

Public Performance of Sound Recordings: Definition of a Service

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office is seeking comment on whether to amend its regulation that defines a "Service"

for purposes of the statutory license governing the public performance of sound recordings by means of digital audio transmissions, in order to clarify that transmissions of a broadcast signal over a digital communications network, such as the Internet, are not exempt from copyright liability under section 114(d)(1)(A) of the Copyright Act.

DATES: Written comments are due April 17, 2000. Reply comments are due May 1, 2000.

ADDRESSES: If sent by mail, an original and ten copies of comments and reply comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenue, S.E., Washington, D.C. 20559-6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION:

Background

In 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA"), Public Law 104-39, which created an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly sound recordings by means of certain digital audio transmissions.

Among the limitations on the performance was the creation of a new compulsory license for nonexempt, noninteractive, digital subscription transmissions, 17 U.S.C. 114(f), and an exemption for certain nonsubscription transmissions, 17 U.S.C. 114(d)(1)(A)(i)-(iii) (1995).

The scope of the exemption, however, has been debated since the passage of the DPRA. Broadcasters have taken the position that any broadcast, whether made over the air or over the Internet, falls within the scope of the section 114(d)(1)(A) exemptions. *See* Reply Comments of National Association of Broadcasters at 9-12 (dated June 20, 1997), submitted in Docket No. RM 97-1. On the other hand, copyright owners of the sound recordings have interpreted the scope of the exemption more narrowly. The Recording Industry Association of America ("RIAA"), on behalf of these copyright owners, has argued that transmissions over the Internet, generally known as webcasts,

do not fall within the scope of the statutory exemptions and, instead, are subject to the copyright owners' exclusive rights under section 106(6). *See, e.g.*, RIAA Petition and Comments of RIAA at 9-12 (dated April 28, 1997), submitted in Docket No. RM 97-1.

Congress, however, did not consider this question when it first addressed the problems associated with the emergence of digital audio technology and its effects on the music industry because, at the time, it had insufficient information on which to act. It did not understand how nonsubscription services were utilizing the Internet to bring music to the public or how to license such enterprises. Therefore, it focused the initial legislation on the digital subscription services and the interactive services that were in operation at the time.

The result was the DPRA, a law which created a licensing scheme for the subscription services and the interactive digital audio services. 17 U.S.C. 114(d)(3) and (f) (1995). It soon became apparent, however, that with the rapid proliferation of the use of the Internet as a transmission medium and the confusion surrounding the question of how the DPRA applied to some nonsubscription digital audio services, further legislation was needed to achieve the dual purposes of the DPRA.¹ Staff of the House of Representatives Comm. on the Judiciary, 105th Cong., 2d Sess., Section-by-Section Analysis of H.R. 2281 as Passed by the United States House of Representatives on August 4, 1998 at 50-51 (Comm. Print, Serial No. 6, 1998).

These changes were part of the Digital Millennium Copyright Act of 1998 ("DMCA"), Public Law 105-304, which, among other things, amended sections 112 and 114 of the Copyright Act to clarify that "the digital sound recording performance right applies to nonsubscription digital audio services such as webcasting" and to address the licensing issues raised by the webcasters. *Id.* at 50. Specifically, Congress amended section 114 by creating a new statutory license for nonexempt eligible nonsubscription

¹ Congress had a two-fold purpose for enacting the DPRA: "first, * * * to ensure that recording artists and record companies will be protected as new technologies affect the ways in which their creative works are used; and second, to create fair and efficient licensing mechanisms that address the complex issues facing copyright owners and copyright users as a result of the rapid growth of digital audio services." Staff of the House of Representatives Comm. on the Judiciary, 105th Cong., 2d Sess., Section-by-Section Analysis of H.R. 2281 as passed by the United States House of Representatives on August 4, 1998 at 49 (Comm. Print, Serial No. 6, 1998).