

Vessels whose owners or operators do not consent to a search of their vessels or who refuse to provide any information requested by the COTP will not be granted permission to enter or remain within the security zone.

The COTP may grant permission for a vessel in the moorings at the Marriott Marina to remain within the security zone if the owners or operators consent to a search of the vessel. If a vessel leaves its mooring and exits the security zone, its reentry will be conditioned on consent to be searched.

The COTP, working with Secret Service and other law enforcement authorities during this operation, may impose other restrictions within the security zone if circumstances dictate. Restrictions imposed by the COTP will be tailored to impose the least impact on maritime interests while ensuring the security of the Marriott Marina and any adjacent vessels, waterfront facilities, or waters.

Regulatory Evaluation

This rule 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. It has been exempted from review by the Office of Management and Budget 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under 5 U.S.C. 601 *et seq.*, known as the Regulatory Flexibility Act, the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small Entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The COTP will allow vessels in the Marriott Marina to remain at their moorings while the security zone is in place, subject to the conditions discussed previously. Costs incurred by vessel owners and commercial entities within the security zone are expected to be minimal. Any such costs are greatly outweighed by the need to safeguard the security of the attendees at the convention. Since the impact of this rule is expected to be minimal, the

Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism Assessment

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

Environmental Assessment

This rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B, as revised in 59 FR 38654, July 29, 1994. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket and is available for inspection and copying at the address listed under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

Final Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new section 165.T11–030 is added to read as follows:

§ 165.T11–030 Security Zone; San Diego Bay, San Diego, CA.

(a) *Location.* The following area is a security zone: the water and land area adjacent to the San Diego Convention Center, San Diego, CA, described as follows:

Beginning at 32°42'26"N, 117°09'56"W; then southwest to 32°42'20"N, 117°10'01"W; then southwest to 32°42'16"N, 117°10'07"W; then southeast to the outer channel line to 32°42'13"N, 117°10'02"W; then continuing along the outer channel line

to 32°42'09"N, 117°09'50"W; then northeast to point of land at 32°42'16"N, 117°09'42"W; then along the shoreline to the point of beginning. Datum: NAD 83).

(b) *Effective dates.* This section is effective from 8 a.m. PDT on August 11, 1996 until 11 p.m. PDT on August 15, 1996.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port.

(2) The Captain of the Port may grant permission for a vessel to enter or remain within the security zone if the owners or operators consent to a search of their vessel for the purpose of locating explosives, weapons, or other articles or things which could pose a threat to the security of the Marriott Marina, adjacent vessels, waterfront facilities, or waters.

(3) All persons and vessels within the security zone shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Upon being hailed via siren, radio, flashing light, or other means, the operator of a vessel shall follow the instructions of the patrol personnel.

(4) The Captain of the Port will notify the public of the status of this security zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: July 9, 1996.

J.A. Watson,

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

[FR Doc. 96–18114 Filed 7–16–96; 8:45 am]

BILLING CODE 4910–14–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 251

[Docket No. 96–4 CARP DPRA]

Digital Phonorecord Delivery Rate Adjustment Proceeding

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulations, notice of initiation of negotiation period.

SUMMARY: The Copyright Office is announcing the initiation of the negotiation period for determining reasonable rates and terms for digital transmissions that constitute a digital phonorecord delivery. This negotiation period is mandated by the Digital

Performance Right in Sound Recordings Act of 1995 and is intended to promote the private settlement of the rates and terms for digital phonorecord delivery. In addition, the Office is adopting procedural regulations implementing the Digital Performance Right in Sound Records Act of 1995. The Office also solicits comments on the advisability of consolidating the digital phonorecord delivery rate adjustment proceeding with the physical phonorecord rate adjustment proceeding.

EFFECTIVE DATES: The regulations are effective August 16, 1996. The negotiation period begins July 17, 1996 and ends December 31, 1996. Comments on consolidation are due November 8, 1996. Petitions for rate adjustment are due January 10, 1997.

ADDRESSES: Comments, copies of voluntary license agreements, and petitions, when sent by mail should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Comments, copies of voluntary license agreements, and petitions, when hand delivered, should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM-407, First and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024, (202) 707-8380.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1995, Congress passed the Digital Performance Right in Sound Recordings Act of 1995 ("Digital Performance Act"). Public Law 104-39, 109 Stat. 336. Among other things, it confirms and clarifies that the scope of the compulsory license to make and distribute phonorecords of nondramatic musical compositions includes digital transmissions which constitute "digital phonorecord deliveries." 17 U.S.C. 115(c)(3). A "digital phonorecord delivery" is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient. 17 U.S.C. 115(d), 37 CFR 255.4.

The Digital Performance Act also provides that the rate for all digital phonorecord deliveries made or authorized under a compulsory license on or before December 31, 1997, shall be the same as the rate in effect for the

making and distribution of physical phonorecords. Accordingly, the Copyright Office and the Library of Congress amended part 255 of the Copyright Office's rules to set the rate for digital phonorecord deliveries at 6.95 cents for each work embodied in a phonorecord, or 1.3 cents per minute of playing time or fraction thereof, whichever amount is larger. 60 FR 61655 (December 1, 1995); 37 CFR 255.5. This is the same rate that applies to the manufacture and distribution of physical phonorecords.

This Rate Adjustment Proceeding

The current rate for digital phonorecord deliveries expires December 31, 1997. Accordingly, in the Digital Performance Act, Congress established a two-step process for adjusting the royalty rate: a negotiation period during the second half of 1996 wherein the owners and the users attempt to reach their own voluntary licenses, and the, if necessary, and upon petition in 1997, the convening of a copyright arbitration panel (CARP) to establish rates and terms for those persons who are not covered by such voluntary licenses. 17 U.S.C. 115(c)(3)(C) and (D).

For the first step in the process, the negotiation period, the Digital Performance Act provides that during the period of June 30, 1996, through December 31, 1996, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates for digital phonorecord deliveries. 17 U.S.C. 115(c)(3)(C).

The Digital Performance Act does not require the negotiation period to begin on June 30, 1996, nor does it require that the negotiation period be six months long. It is the Office's understanding that the Act leaves the commencement and the length of the negotiation period to the discretion of the Librarian.

Upon consideration, the Office believes that the negotiation period should begin in July, 1996, and should conclude by December 31, 1996, and that petitions to convene a CARP should be filed by January 10, 1997, for the following reason. The current rate for digital phonorecord deliveries, by operation of law, is set to expire December 31, 1997. Should negotiations fail and the Librarian be petitioned to convene a CARP, written direct cases would have to be filed by January 31, 1997, if the precontroversy period (three months), the arbitration proceeding (six months) and the Librarian's review of

the CARP's decision (two months) is to conclude by December 31, 1997. Otherwise, there will be a lapse in time when no rates apply to digital phonorecord deliveries.

Therefore, the following procedural dates shall apply:

- From today's publication in the Federal Register to December 31, 1996, there is established the voluntary negotiation proceeding for determining reasonable terms and rates of royalty payments for digital phonorecord deliveries. Such terms and rates shall distinguish between (a) digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, and (b) digital phonorecord deliveries in general.

- If negotiations are successful, any copyright owners of nondramatic musical works and any persons entitled to obtain a compulsory license for digital phonorecord deliveries may submit to the Librarian of Congress licenses covering such activities. 17 U.S.C. 115(c)(3)(C).

- In addition, if negotiations are successful, the Librarian may, upon the request of the parties to the negotiation proceeding, submit the agreed upon rates and terms to the public in a notice-and-comment proceeding. The Librarian may adopt the rates and terms embodied in the proposed settlement without convening a CARP, provided that no opposing comment is received by the Librarian from a party with an intent to participate in a CARP proceeding. 37 CFR 251.63(a). Such petitions are to be filed by January 10, 1997.

- If negotiations are not successful, petitions to convene a CARP are to be filed by January 10, 1997.¹ The petition shall detail petitioner's interest in the royalty rate sufficiently to permit the Librarian of Congress to determine whether the petitioner has a "significant interest" in the rate. The petition must also identify the extent to which the petitioner's interest is shared by other owners or users; owners or users with similar interests may file a joint petition. 37 CFR 251.62.

- Notices of Intent to Participate in a CARP proceeding to adjust the rates and establish the terms of the digital

¹ Because the law requires petitions to be filed in 1997, and because written direct cases must be filed by January 31, 1997, if the proceeding is to conclude by December 31, 1997, the petitions must be received by the Copyright Office by January 10, 1997. Therefore, it is advisable for petitioners to deliver their petitions to the Copyright Office. If petitions are mailed to the CARP post office box, it is advisable that they be sent well in advance.

phonorecord delivery compulsory license are to be filed by January 17, 1997.

- Written direct cases in the CARP proceeding shall be filed by January 31, 1997.

- After the precontroversy discovery period, the Librarian will initiate the CARP proceeding on May 1, 1997.

Relationship to Rate Adjustment Proceeding for Physical Phonorecords

The year 1997 is also when the mechanical royalty rate for physical phonorecords may be adjusted. This rate can be the same as, or different from, the rate that applies to digital phonorecord deliveries. While the rate for digital phonorecord deliveries expires, by law, on December 31, 1997, and needs to be replaced, there is no similar urgency to adjust the mechanical royalty rate for physical phonorecords. If no rate adjustment proceeding for physical phonorecords is concluded by December 31, 1997, the rate in existence now will simply continue until such time as it is adjusted.

The question is still raised whether it wouldn't be more efficient and less costly to have the same CARP panel, if one is to be convened, consider the mechanical royalty rates for both physical phonorecords and digital phonorecord deliveries. To consolidate such proceedings, it would be necessary to have a petition to adjust the physical phonorecord rate filed at the same time as the petition to adjust the digital phonorecord deliveries rate, January 10, 1997.

However, to require petitions to be filed by January 10, 1997, might deprive the interested copyright owners and users of time in 1997 to negotiate the rate. Therefore, the Office solicits comments on the advisability of consolidating the two rate adjustment proceedings. Comments are due by November 8, 1996. If the comments favor consolidation, the Office will issue an order indicating that the two proceedings will be consolidated. The order will also call for physical phonorecord petitions to be filed by January 10, 1997, Notices of Intent to Participate to be filed by January 17, 1997, written direct cases to be filed by January 31, 1997, and list all other procedural dates. The order will also cancel, because of time constraints, the 30-day negotiation period that follows the filing of a physical phonorecord petition set out in 37 CFR 251.63(a). The Librarian will initiate the consolidated proceeding on May 1, 1997.

Amendment of CARP Rules to Reflect Passage of Digital Performance Act

In addition to expanding the scope of the mechanical compulsory license to include digital phonorecord deliveries, the Digital Performance Act also added a new compulsory license: the license for qualifying subscription digital audio transmission services to perform sound recordings. The rates and terms for both these licenses are to be set by the CARP, if negotiations prove successful. Therefore, the current CARP rules need to be amended to reflect these additional responsibilities.

Section 553(b)(3)(A) of the Administrative Procedure Act states that general notice of proposed rulemaking is not required for rules of agency organization, procedure, or practice. Since the Office finds that the following final regulations are rules of agency organization, procedure, or practice, no notice of proposed rulemaking is required.

List of Subjects in 37 CFR Part 251

Administrative practice and procedure, Cable television, Copyright, Jukeboxes, Organization and functions (government agencies), Recordings, Satellites.

For the reasons set forth in the preamble, the Copyright Office and the Library of Congress amend 37 CFR part 251 as follows:

PART 251—COPYRIGHT ARBITRATION ROYALTY PANEL RULES OF PROCEDURE

1. The authority citation for part 251 continues to read as follows:

Authority: 17 U.S.C. 801–803.

2. Section 251.2 is revised to read as follows:

§ 251.2 Purpose of Copyright Arbitration Royalty Panels.

The Librarian of Congress, upon the recommendation of the Register of Copyrights, may appoint and convene a Copyright Arbitration Royalty Panel (CARP) for the following purposes:

- (a) To make determinations concerning royalty rates for the cable compulsory license, 17 U.S.C. 111;
- (b) To make determinations concerning royalty rates and terms for the subscription digital audio transmissions compulsory license, 17 U.S.C. 114;
- (c) To make determinations concerning royalty rates for making and distributing phonorecords, and royalty rates and terms for digital transmissions that constitute digital phonorecord deliveries, 17 U.S.C. 115;

- (d) To make determinations concerning royalty rates for coin-operated phonorecord players (jukeboxes) whenever a negotiated license expires or is terminated and is not replaced by another such license agreement, 17 U.S.C. 116;

- (e) To make determinations concerning royalty rates and terms for the use by noncommercial educational broadcast stations for certain copyrighted works, 17 U.S.C. 118;

- (f) To make determinations concerning royalty rates for the satellite carrier compulsory license, 17 U.S.C. 119; and

- (g) To make determinations concerning the distribution of cable and satellite carrier royalty fees and digital audio recording devices and media payments deposited with the Register of Copyrights, 17 U.S.C. 111, 119, and chapter 10, respectively.

3. Section 251.58(c) is revised to read as follows:

§ 251.58 Judicial review.

* * * * *

- (c) The pendency of any appeal shall not relieve persons obligated to make royalty payments under 17 U.S.C. 111, 114, 115, 116, 118, 119, or 1003, and who would be affected by the determination on appeal, from depositing statements of account and royalty fees by those sections.

4. The first sentence of § 251.60 is revised to read as follows:

§ 251.60 Scope.

This subpart governs only those proceedings dealing with royalty rate adjustments affecting cable (17 U.S.C. 111), subscription digital audio transmission (17 U.S.C. 114), the manufacture and distribution of phonorecords, including digital phonorecord deliveries (17 U.S.C. 115), performances on coin-operated phonorecord players (jukeboxes) (17 U.S.C. 116), noncommercial educational broadcasting (17 U.S.C. 118) and satellite carriers (17 U.S.C. 119). * * *

5. In § 251.61, paragraph (a) is revised to read as follows:

§ 251.61 Commencement of adjustment proceedings.

- (a) In the case of cable, subscription digital audio transmissions, phonorecords, digital phonorecord deliveries, and coin-operated phonorecord players (jukeboxes), rate adjustment proceedings shall commence with the filing of a petition by an interested party according to the following schedule:

- (1) Cable: During 1995, and each subsequent fifth calendar year.

(2) Subscription Digital Audio Transmissions: During a 60-day period prescribed by the Librarian in 1996, 2000, and each subsequent fifth calendar year.

(3) Phonorecords: During 1997 and each subsequent tenth calendar year.

(4) Digital Phonorecord Deliveries: During 1997 and each subsequent fifth calendar year except to the extent that different years may be determined by the parties to a negotiated settlement or by the copyright arbitration royalty panel.

(5) Coin-operated phonorecord players (jukeboxes): Within one year of the expiration or termination of a negotiated license authorized by 17 U.S.C. 116.

* * * * *

6. In § 251.62, the first sentence of paragraph (a) is revised to read as follows:

§ 251.62 Content of petition.

(a) In the case of a petition for rate adjustment proceedings for cable, subscription digital audio transmissions, phonorecords, digital phonorecord deliveries, and coin-operated phonorecord players (jukeboxes), the petition shall detail the petitioner's interest in the royalty rate sufficiently to permit the Librarian of Congress to determine whether the petitioner has a "significant interest" in the matter. * * *

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7. In § 251.63, the first sentence of paragraph (a) is revised to read as follows:

§ 251.63 Consideration of petition; settlements.

(a) To allow time for the parties to settle their differences concerning cable, phonorecord, and jukebox rate adjustments, the Librarian of Congress shall, after the filing of the petition under § 251.62 and before the 45-day period specified in § 251.45(b)(2)(i), designate a 30-day period for consideration of their settlement. * * *

* * * * *

Dated: July 12, 1996.

Recommended by:

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 96-18105 Filed 7-16-96; 8:45 am]

BILLING CODE 1410-33-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI72-01-7298a; FRL-5528-3]

Approval and Promulgation of State Implementation Plan; Wisconsin; Site-Specific Revision For General Electric Medical Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency approves a site-specific volatile organic compound (VOC) reasonably available control technology (RACT) state implementation plan (SIP) revision for the General Electric Medical Systems (GEM) facility located at 4855 West Electric Avenue in Milwaukee, Wisconsin. This SIP revision was submitted by the Wisconsin Department of Natural Resources (WDNR) on March 15, 1996. This approval makes federally enforceable the State's consent order establishing an alternate control system for GEM's cold cleaning operation.

In the proposed rules section of this Federal Register, the EPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this Federal Register. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's rule that has been incorporated by reference. **DATES:** The "direct final" is effective on September 16, 1996, unless EPA receives adverse or critical comments by August 16, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT:

Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-1767.

SUPPLEMENTARY INFORMATION:

I. Background

General Electric Medical Systems (GEM) owns a facility located at 4855 West Electric Avenue in Milwaukee, Wisconsin. The GEM facility manufactures X-ray tubes and components for other medical systems, and includes a cold cleaning operation which is part of an automated batch chemical treatment process for X-ray tubes. The GEM facility is located in the Milwaukee severe nonattainment area and is subject to rule NR 423 of the Wisconsin Administrative Code, which regulates VOC emissions from solvent cleaning operations. This rule has been approved by the United States Environmental Protection Agency (EPA) as meeting the RACT requirements of the Clean Air Act (Act).

Specifically, under sections NR 423.03(3)(d), (i), and (j), GEM is required to control organic compound emissions from the cold cleaning operation through a freeboard ratio greater than or equal to 1.0, through a water cover, or through an alternate control system equivalent to a freeboard ratio of 1.0. Under section 423.03(9), any alternate control method approved by the WDNR must be submitted to and approved by EPA as a site-specific SIP revision. For the reasons outlined below, GEM chose to install an alternate control system. The WDNR has made the determination that the controls proposed by GEM are more effective than those required by Rule 423 and has approved GEM's proposal through Consent Order AM-96-200. On March 15, 1995, the Wisconsin Department of Natural Resources (WDNR) submitted this Order to EPA, along with associated materials, for incorporation into Wisconsin's SIP.

II. Facility and Process Description

As noted above, GEM manufactures X-ray tubes and components for other medical systems. This includes glass blowing, graphite target manufacturing, cathode and anode machining and X-ray assembly. The X-ray units are also tested and rebuilt at this facility.

The facility has a cold cleaning operation which is part of an automated batch chemical treatment process for X-ray tubes. This process consists of loading parts into a carrier that automatically immerses them in various