

revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

You may obtain paper copies of the updated Filer Manual at the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street, NE., Room 1580, Washington DC 20549. We will post electronic format copies on the Commission's Web site; the address for the Filer Manual is <http://www.sec.gov/info/edgar.shtml>. You may also obtain copies from Thomson Financial Inc, the paper contractor for the Commission, at (800) 638-8241.

Since the Filer Manual relates solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA).<sup>6</sup> It follows that the requirements of the Regulatory Flexibility Act<sup>7</sup> do not apply.

The effective date for the updated Filer Manual and the rule amendments is June 6, 2005. In accordance with the APA,<sup>8</sup> we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system upgrade to Release 9.0 is scheduled to become available on June 6, 2005. The Commission believes that it is necessary to coordinate the effectiveness of the updated Filer Manual with the scheduled system upgrade.

#### Statutory Basis

We are adopting the amendments to Regulation S-T under Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,<sup>9</sup> Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,<sup>10</sup> Section 20 of the Public Utility Holding Company Act of 1935,<sup>11</sup> Section 319 of the Trust Indenture Act of 1939,<sup>12</sup> and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.<sup>13</sup>

#### List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

#### Text of the Amendment

■ In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

### PART 232—REGULATION S-T— GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for part 232 continues to read in part as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79t(a), 80a-8, 80a-29, 80a-30, 80a-37, and 7201 *et seq.*; and 18 U.S.C. 1350.

\* \* \* \* \*

■ 2. Section 232.301 is revised to read as follows:

#### § 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for filers using modernized EDGARLink are set forth in the EDGAR Release 9.0 EDGARLink Filer Manual Volume I, dated June 2005. Additional provisions applicable to Form N-SAR filers and Online Forms filers are set forth in the EDGAR Release 9.0 N-SAR Supplement Filer Manual Volume II, dated June 2005, and the EDGAR Release 9.0 OnlineForms Filer Manual Volume III, dated June 2005. All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You must comply with these requirements in order for documents to be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street, NE., Room 1580, Washington, DC 20549 or by calling Thomson Financial Inc at (800) 638-8241. Electronic format copies are available on the Commission's Web site. The address for the Filer Manual is <http://www.sec.gov/info/edgar.shtml>. You can also photocopy the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

By the Commission.

Dated: May 19, 2005.

**Margaret H. McFarland,**

*Deputy Secretary.*

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD05-05-061]

RIN 1625-AA-09

#### Drawbridge Operation Regulations; Spa Creek, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the S181 Bridge across the Spa Creek, at mile 0.4, at Annapolis, in MD. This deviation allows the drawbridge to remain in the closed-to-navigation position each day from 10 p.m. to 5 a.m., beginning July 6, 2005, through August 31, 2005, to facilitate sandblasting and painting operations of the bridge.

**DATES:** This deviation is effective from 10 p.m. beginning July 6, 2005, to 5 a.m. through August 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Gary Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6629.

**SUPPLEMENTARY INFORMATION:** The Maryland State Highway Authority, who owns and operates the S181 Bridge, has requested a temporary deviation from the operating regulation to facilitate needed sandblasting and painting of the bridge.

To facilitate this operation, the lift-span will be locked in the closed-to-navigation position each day from 10 p.m. to 5 a.m. beginning July 6, 2005, until and including August 31, 2005. During these closure periods, the process requires completely immobilizing the operation of the lift span in the closed-to-navigation position. At all other times, the bridge will operate in accordance with the current operating regulations outlined in 33 CFR 117.571.

The Coast Guard has informed the known users of the waterway of the closure periods for the bridge so that these vessels can arrange their transits to minimize any impact caused by the temporary deviation.

The District Commander has granted temporary deviation from the operating requirements listed in 33 CFR 117.35 for the purpose of repair completion of the drawbridge. The temporary deviation allows the S181 Bridge across the Spa

<sup>6</sup> 5 U.S.C. 553(b).

<sup>7</sup> 5 U.S.C. 601-612.

<sup>8</sup> 5 U.S.C. 553(d)(3).

<sup>9</sup> 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

<sup>10</sup> 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w, and 78ll.

<sup>11</sup> 15 U.S.C. 79t.

<sup>12</sup> 15 U.S.C. 77sss.

<sup>13</sup> 15 U.S.C. 80a-8, 80a-29, 80a-30, and 80a-37.

Creek, at mile 0.4, at Annapolis, MD, to remain in the closed-to-navigation position each day from 10 p.m. to 5 a.m. beginning July 6, 2005, through August 31, 2005.

Dated: May 20, 2005.

**Waverly W. Gregory, Jr.,**

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 05-10694 Filed 5-27-05; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Chapter III

[Docket No. RM 2005-1]

#### Procedural Regulations for the Copyright Royalty Board

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Procedural regulations with request for comments.

**SUMMARY:** The Interim Chief Copyright Royalty Judge, on behalf of the Copyright Royalty Board of the Library of Congress, is issuing these regulations, governing the organization, administration, and procedures of the Board, for immediate use in proceedings that are subject to the jurisdiction of Copyright Royalty Judges. Public comments are sought on these regulations.

**DATES:** These regulations are effective on May 31, 2005.

Written comments should be received no later than June 30, 2005. Reply comments should be received no later than July 21, 2005.

**ADDRESSES:** If hand delivered by a private party, an original and five copies of comments and reply comments must be brought to Room LM-401 of the James Madison Memorial Building, Monday through Friday, between 8:30 a.m. and 5 p.m., and the envelope must be addressed as follows: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. If delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services), an original and five copies of comments and reply comments must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Street, NE., Monday through Friday, between 8:30 a.m. and 4 p.m., and the envelope must be addressed as follows:

Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue, SE., Washington, DC 20559-6000. If sent by mail (including overnight delivery using United States Postal Service Express Mail), an original and five copies of comments and reply comments must be addressed to: Copyright Royalty Board, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Comments and reply comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

#### FOR FURTHER INFORMATION CONTACT:

William J. Roberts, Jr., Senior Attorney, or Abioye E. Oyewole, CRB Program Specialist. Telephone (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** On November 30, 2004, the President signed into law the Copyright Royalty and Distribution Reform Act of 2004 (the "Reform Act"), Public Law 108-419, 118 Stat. 2341. This Act, which becomes effective on May 31, 2005, amends the Copyright Act, title 17 of the United States Code with respect to the administration of the various statutory copyright licenses, phasing out the Copyright Arbitration Royalty Panel ("CARP") system and replacing the arbitrators with three permanent Copyright Royalty Judges.<sup>1</sup>

Statutory licenses, sometimes referred to as "compulsory" licenses, enable a person to use copyrighted materials unilaterally, without contractual permission of the owners of the materials; so long as the user complies with applicable reporting and royalty payment obligations, such uses are not infringements of the owners' copyright. The first statutory license, created in 1909, allowed manufacturers of piano rolls to use copyrighted nondramatic musical works; the license fee was set by Congress in the statute. *See, Recording Industry Ass'n v. Copyright Royalty Tribunal*, 662 F.2d 1 (D.C. Cir. 1981). In 1976, as part of major revisions to the Copyright Act, Congress greatly enlarged the regime for statutory licenses, reflecting the development of

<sup>1</sup> Under the Act, the Copyright Royalty Judges will conduct proceedings to "make determinations and adjustments of reasonable terms and rates of royalty payments as provided in [Copyright Act] sections 112(e), 114, 115, 116, 118, 119 and 1004," "to make determinations concerning the adjustment of the copyright royalty rates under [Copyright Act] section 111," to authorize distributions under sections 111, 119, and 1007 of the Act, and "[t]o determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010." See 17 U.S.C. 801(b).

new communications industries and media. Henceforth, the rates for the statutory licenses would be adjusted by administrative decision. And, in those instances where the statutory license fees would be paid into royalty pools (as opposed to payments made directly to copyright owners), the 1976 amendments to the Copyright Act set up administrative proceedings to adjudicate distribution disputes. *See, Christian Broadcasting Network, Inc. v. Copyright Royalty Tribunal*, 720 F.2d 1295, 1300 (D.C. Cir. 1983).

Finding the right administrative structure to set rates and make distributions for the expanded array of statutory licenses has proven problematic. Initially, Congress established a stand-alone administrative agency—the former Copyright Royalty Tribunal—to perform these tasks. However, "there was insufficient work to justify the existence of a permanent body \* \* \*." *National Ass'n of Broadcasters v. Librarian of Congress*, 146 F.3d 907, 912 (D.C. Cir. 1998). Next, in 1993, Congress transferred the ratemaking and distribution functions to the Library of Congress. In cases where the parties could not reach agreement, the controversies would be referred to an *ad hoc* CARP. The CARP decisions were then reviewed by the Librarian for possible arbitrariness. *Id.* at 912-13. But the CARP system presented perceived problems of continuity, consistency, and expense.

Under the Reform Act, three permanent Copyright Royalty Judges will be appointed by the Librarian of Congress to encourage settlements and, when necessary, resolve statutory license disputes. The expectation is that the Copyright Royalty Judges, appointed to staggered, six-year terms, will provide greater decisional stability, yielding the advantages of the former Copyright Royalty Tribunal, but with greater efficiency and expertise. On February 7, 2005, the Librarian of Congress appointed an interim Chief Copyright Royalty Judge and the Copyright Royalty Board ("CRB" or "Board") was subsequently established within the Library of Congress to house the Copyright Royalty Judges.

These regulations implement the requirement of section 803(b)(6)(A) of the Copyright Act<sup>2</sup> that directs the Copyright Royalty Judges to "issue regulations to govern [their] proceedings" within 120 days of their

<sup>2</sup> Unless otherwise noted, all references are to Chapter 8 of title 17 of the United States Code as in effect on May 31, 2005.