10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary security zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. This rule involves establishing a temporary security zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–1067 to read as follows:

§ 165.T05–1067 Security Zone, Potomac and Anacostia Rivers; Washington, DC.

(a) *Location.* The following area is a security zone:

(1) All waters of the Potomac River, from shoreline to shoreline, bounded on the north by the Francis Scott Key (U.S. Route 29) Bridge at mile 113.0, downstream to and bounded on the south between the Virginia shoreline and the District of Columbia shoreline along latitude 38°50′00″;N, including the waters of the Georgetown Channel Tidal Basin; and

(2) All waters of the Anacostia River, from shoreline to shoreline, bounded on the north by the 11th Street (I–295) Bridge at mile 2.1, downstream to and bounded on the south by its confluence with the Potomac River. All coordinates refer to datum NAD 1983.

(b) *Regulations.* The general security zone regulations found in 33 CFR 165.33 apply to the security zone created by this temporary section, § 165.T05–1067.

(1) All persons are required to comply with the general regulations governing security zones found in 33 CFR 165.33.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. Vessels already at berth, mooring, or anchor at the time the security zone is implemented do not have to depart the security zone. All vessels underway within this security zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the security zone must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(c) *Definitions.* As used in this section:

Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the security zone described in paragraph (a) of this section.

(d) *Effective Period.* This rule is effective from 4 p.m. on January 29, 2013 until 2 a.m. on January 30, 2013.

(e) *Enforcement period.* This section will be enforced from 4 p.m. on January 29, 2013 until 2 a.m. on January 30, 2013.

Dated: December 16, 2012.

Kevin C. Kiefer,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2013–00217 Filed 1–8–13; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2010–3]

Refunds Under the Cable Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office is amending its regulations to clarify its practices for providing refunds of cable royalties under the provisions of the Satellite Television Extension and

Localism Act of 2010 (''STELA''). A cable operator must pay royalties to and file Statements of Account with the Office every six months in order to use the statutory license that allows for the retransmission of over-the-air broadcast signals under 17 U.S.C. 111. STELA allows a cable operator to calculate its royalty obligation for the carriage of distant signals on a community-by-community basis for accounting periods beginning on or after January 1, 2010, instead of calculating its royalty obligation based on the system as a whole. STELA also states that a cable operator shall not be subject to an infringement action if it used the subscriber group methodology to calculate its royalty obligation in a Statement filed prior to the effective date of STELA. Although a cable operator cannot be held liable for using the subscriber group methodology, the regulation clarifies that a cable operator's obligation to pay for the carriage of distant signals prior to the effective date of STELA was determined on a system-wide basis. Therefore, refunds for an overpayment of royalty fees on a Statement filed prior to the effective date of STELA will be made only when a cable operator has satisfied its outstanding royalty obligations (if any), including the obligation to pay for the carriage of each distant signal on a system-wide basis.

DATES: *Effective Date:* February 8, 2013.

FOR FURTHER INFORMATION CONTACT:
Tanya Sandros, Deputy General Counsel, or Erik Bertin, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. *Telephone:* (202) 707–8380. *Telefax:* (202) 707–8366. All prior **Federal Register** notices and comments in this docket are available at *http://www.copyright.gov/docs/stela/comments/index.html.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 111 of the Copyright Act (''Act''), Title 17 of the United States Code (''Section 111''), allows cable operators to retransmit the performance or display of a work embodied in a primary transmission made by a television or radio station licensed by the Federal Communications Commission (''FCC''). In order to use this statutory license, cable operators are required to pay royalty fees to the Copyright Office on a semi-annual basis. The Office invests these royalties in United States Treasury securities pending distribution of the funds to those copyright owners who are entitled to receive a share of the fees. In 2010, Congress enacted the Satellite Television Extension and Localism Act of 2010 (''STELA''), Public Law 111–175, which *inter alia* changed the methodology for calculating royalty obligations under Section 111.

Generally speaking, the royalty fee for retransmitting a distant broadcast signal is based on a percentage of the gross receipts generated by a cable system. Under the licensing framework established by Congress in 1976, cable operators were required to pay for every distant broadcast signal that they carried on their system without regard to whether a particular signal was received by or made available to all of the subscribers within a particular community. Cable operators often referred to the signals that subscribers could not receive as ''phantom signals,'' because the operator's royalty obligation was calculated based solely on the number and type of signals (*e.g.,* local vs. distant or permitted vs. non-permitted) carried by a cable system, even if the operator did not provide a particular signal to all of its subscribers. The Office and the cable industry have been aware of this issue for more than 25 years, but it did not receive legislative attention until 2010.

Section 104 of STELA changed the methodology for calculating the royalty fees that a cable operator must pay in order to use the statutory license. The royalty fee is based on the communities where a cable system actually offers distant broadcast signals, instead of calculating royalties based on carriage of the signals throughout the system as a whole. As a result, the controversy surrounding phantom signals has been eliminated. Specifically, STELA amended Section 111(d)(1) of the Copyright Act to state that if a cable system provides distant broadcast signals to some, but not all, of the subscribers served by that system, the gross receipts and distant signal equivalent values for each signal may be based on the subscribers in those communities where the signal is actually provided. *See* 17 U.S.C. 111(d)(1)(C)(iii).

STELA also amended Section 111(d)(1)(D) to state that:

> A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

In other words, a cable operator cannot be held liable for using the subscriber group methodology to calculate its royalty obligation on any Statement of Account filed prior to the enactment of STELA (including any amended Statement).[1] However, the legislation makes clear that a cable operator shall not be entitled to any refund or offset based on the fact that it used the subscriber group methodology on a Statement or amended Statement filed prior to the date of enactment.

On October 4, 2010, the Office published a notice of proposed rulemaking and request for comment on a regulation that would implement Section 111(d)(1)(D) of the Copyright Act. *See* 75 FR 61116. The Office explained that the proposed regulation would confirm that a cable operator's obligation to pay for the carriage of distant signals prior to the effective date of STELA was determined on a system-wide basis. It would also confirm that the Office will not issue refunds for a Statement filed before the 2010/1 accounting period, unless the cable operator has satisfied its outstanding royalty obligations (if any), including the obligation to pay for the carriage of distant signals on a system-wide basis.[2]

The Office explained that a number of cable operators have requested refunds for overpayments that they allegedly made on Statements filed prior to the enactment of STELA. In most cases, the refund request was made in response to an inquiry from the Licensing Division concerning a questionable or missing entry in the operator's filing, such as identifying a local signal as a distant signal for the 2009/2 accounting period or an earlier accounting period.[3] In

[1] Although the President signed STELA into law on May 27, 2010, the statute states that the date of enactment shall be deemed to be February 27, 2010. *See* Public Law 111–175, § 307(a), 124 Stat. 1257 (May 27, 2010).

[2] The Office is aware of at least two situations where a cable operator initially calculated its royalty obligation using the subscriber group method, and then in response to an inquiry from the Licensing Division, changed its Statement of Account to calculate its royalties using the system-wide method. The operator then requested a refund for an overpayment that was unrelated to the issue of phantom signals. The Office issued a refund in both cases, because the amount paid on the initial Statement of Account exceeded the amount due for the phantom signals.

[3] Refund requests may also originate with the cable system. The Office is aware of at least one situation where a cable operator initiated and submitted a timely formal amendment to its initial 2009/2 Statement of Account requesting a refund before the Statement was examined by the Licensing Division. However, in this case, the Licensing Division is unable to ascertain whether a refund is due because the operator used the subscriber group methodology in its initial and its amended filing and, as a result, the extent of the royalty fees that the cable operator owed for the system-wide carriage of all signals is unclear.

those cases where the operators used the subscriber group methodology to calculate their royalty obligations, instead of calculating royalties on a system-wide basis, the Licensing Division has declined to issue a refund because there appears to be a balance due—rather than an overpayment—on their Statements.

II. The Timeliness of the Refund Requests

A. Comments

The Office received comments and reply comments from the National Cable & Telecommunications Association (''NCTA'') and the Motion Picture Association of America, Inc., on behalf of its member companies, and other producers and/or syndicators of movies, programs, and specials broadcast by television stations (collectively, the ''Program Suppliers''). The Office also received reply comments from a group of Copyright Owners who, like Program Suppliers, are the beneficiaries of the royalties collected under the statutory license.[4]

In their initial comments, the Program Suppliers asserted that most of the refund requests should be denied because they appear to be untimely. The Copyright Owners expressed the same view. *See* Program Suppliers Comment at 3–4; Copyright Owners Reply at 1–2.

The Office's current regulations state that a cable operator may request a refund ''before the expiration of 60 days from the last day of the applicable Statement of Account filing period, or before the expiration of 60 days from the date of receipt at the Copyright Office of the royalty payment that is the subject of the request, whichever time period is longer.'' 37 CFR 201.17(m)(3)(i). The Program Suppliers stated that this regulation bars many of the refund requests at issue in this proceeding, because the cable operators made their requests more than 60 days after they filed their Statements and their royalty payments with the Office. Program Suppliers Comment at 3–4. However, the Program Suppliers took a different position in their reply comments. Although they urged the Office ''to continue to enforce [the 60 day] rule,'' the Program Suppliers stated that refund requests should be permitted where—as here—a cable operator requests a refund in response to a communication from the Licensing Division, even if that request is made more than 60 days after the deadline. Program Suppliers Reply at 1, 2.

The NCTA expressed the same view. Both the Program Suppliers and the NCTA contended that the current regulations do not allow cable operators to request a refund when they discover an overpayment in response to a communication from the Licensing Division, and they asked the Office to adopt a new regulation which would allow the Office to issue a refund in this situation. Program Suppliers Reply at 2–4; NCTA Reply at 4.

B. Discussion

The Program Suppliers are correct that a cable operator may request a refund under § 201.17(m)(3)(i) of the regulations, provided that the request is made within 60 days after the operator filed its Statement of Account and/or royalty payments with the Office. However, most of the refunds at issue in this proceeding are not governed by this section.[5] Instead, they are governed by § 201.17(m)(3)(vi) of the regulations, which states that ''[a] request for a refund is not necessary where the Licensing Division, during its examination of a Statement of Account or related document, discovers an error that has resulted in a royalty overpayment.''

When the Office discovers a legitimate overpayment in its examination of a Statement or amended Statement it is required to issue a refund, regardless of whether the Office discovers the error on its own or in the course of its communication with the cable operator. When the Office issues an inquiry concerning a particular Statement of Account, the NCTA noted that the operator typically reviews that Statement for errors and, if the operator determines that the royalties paid on that Statement exceeded the amount due, the operator may request a refund by filing a corrected Statement of Account. The NCTA correctly noted that ''the Office's longstanding practice has been to issue the appropriate refund'' in this situation, ''even though the request for such refund falls outside the 60-day window that governs operator-initiated refund requests.'' NCTA Reply at 4.

The NCTA contended that this practice ''is not expressly codified in the Office's rules,'' NCTA Reply at 4, but in fact, the regulations specifically state that ''the Licensing Division will forward the royalty refund to the cable system owner named in the Statement of Account without regard to the time limitations provided for [in § 201.17(m)(3)(i) of the regulations].'' 37 CFR 201.17(m)(3)(vi). Simply put, the Program Suppliers and the NCTA have asked the Office to adopt a rule that is already reflected in the regulations.

To be clear, there must be a direct relationship between the issues identified in the Office's inquiry and the basis for the operator's refund request. An inquiry from the Office is not an open invitation to revisit every entry in every Statement of Account that has been filed with the Office, and refunds will not be made if the operator discovers errors that are unrelated to the issues that prompted the Office's inquiry. For example, if the Office notified a cable operator that it apparently reported three local signals as distant signals on its 2010/1 Statement of Account, the operator may be entitled to a refund for those three signals under § 201.17(m)(3)(vi) of the regulations. However, if the operator determined that it failed to identify another distant station as a significantly viewed station on its 2010/1 Statement of Account (hence, considered to be a local station), or mistakenly paid royalties for another signal that was not carried anywhere on the system, the operator would not be entitled to a refund for those overpayments unless it filed an amended Statement of Account within the time allowed under § 201.17(m)(3)(i) of the regulations.

III. Final Rule

A. Comments

The Program Suppliers and the Copyright Owners did not take a position on the proposed regulation in their initial comments. They simply noted that the refund requests appear to be untimely and should be denied on that basis. However, the Program Suppliers took an entirely different position in their reply comments, stating that the ''proposed Amendment to Section 201.17(m) is unnecessary,'' and that there is ''no reason for [a] new regulation regarding phantom signals.'' Program Suppliers Reply at 2.

While the Program Suppliers did not explain the reason for the change in their views, the NCTA consistently maintained the same position in its initial comments and reply comments. The NCTA contended that the proposed rule ignores the ''letter and spirit'' of the statutory language set forth in Section 111(d)(1)(D), as well as the legislative

[4] This group includes the Joint Sports Claimants (professional and college sports programming); Commercial Television Claimants (local commercial television programming); Devotional Claimants (religious television programming); Canadian Claimants (Canadian television programming); and Music Claimants (musical works included in television programming).

[5] As discussed above, the Office is aware of at least one situation where a cable operator requested a refund on its 2009/2 Statement of Account before the Statement was examined by the Licensing Division. This request was timely under § 201.17(m)(3)(i), because it was received within 60 days after the last day of the accounting period.

history for that provision. The NCTA also contended that the regulation would undermine the negotiated settlement between copyright owners and cable operators that resolved the longstanding dispute over phantom signals. NCTA Comment at 2; NCTA Reply at 1, 2.

Specifically, the NCTA asserted that the proposed regulation ''runs counter to Congress' clear intent to hold cable operators harmless for their past use of the subscriber group methodology,'' and that adopting this rule ''would effectively penalize a cable operator for something Congress has expressly approved.'' NCTA Comment at 2; NCTA Reply at 3. The NCTA commented that the regulation would prevent cable operators from obtaining a refund for an overpayment on a Statement of Account or an amended Statement of Account filed prior to the effective date of STELA, even if the overpayment ''does not arise from the operator's use of subscriber group or system-wide reporting.'' NCTA Reply at 3. For example, the NCTA contended that the regulation would prevent a cable operator who used the subscriber group methodology from claiming a refund where the operator incorrectly reported a local signal as distant or mistakenly paid royalties for a signal that was not carried anywhere on the system. NCTA Reply at 3.

Finally, the NCTA predicted that the proposed rule will cause ''confusion'' regarding the treatment of phantom signals and it will ''reignite the uncertainty and controversy'' that the legislation was intended to resolve. NCTA Comment at 2; NCTA Reply at 2. The NCTA explained that the amendments to Section 111 were intended ''to provide a *permanent* resolution of the phantom signal controversy'' and that the proposed rule ''is antithetical to the goals of closure and certainty that are at the heart of the phantom signal settlement.'' NCTA Comment at 4 (emphasis in original).

B. Discussion

As a general rule, the Office will issue a refund to a cable operator when the royalty fees paid on a particular Statement of Account exceed the amount due. The NCTA contended that ''Section 111(d)(1)(D), as amended by STELA, speaks for itself and provides all of the guidance needed for copyright owners, copyright users, and the Office to determine a cable operator's royalty fees and to make refunds where appropriate.'' NCTA Reply at 2. The Office agrees with that assessment.

STELA amended Section 111(d)(1)(D) to state that:

> A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

As the NCTA observed, cable operators cannot be held liable in an infringement action for using the subscriber group methodology to calculate their royalty obligations on a Statement of Account or amended Statement of Account filed prior to the enactment of STELA. Nor are they required to recalculate their royalty obligations using the system-wide methodology in order to avoid liability for infringement. *See* NCTA Reply at 2. However, Section 111(d)(1)(D) makes it clear that cable operators are not entitled to any refunds or offsets arising out of their use of the subscriber group methodology before the enactment of STELA. The NCTA correctly noted that cable operators who paid for phantom signals on a pre-STELA Statement of Account are ''expressly precluded from obtaining any benefit (through refunds or offsets to other payment obligations) by going back and revising their calculations to use the subscriber group methodology after-the-fact.'' NCTA Comment at 3–4. Likewise, cable operators cannot deduct the amount that they paid for a phantom signal prior to the 2010/1 accounting period in order to reduce the amount that they owe on a future Statement of Account. *See id.*

The question presented in this proceeding is whether the Office should allow use of the subscriber group methodology in place of the system-wide methodology to determine whether there is an overpayment or a balance due on Statements filed prior to the effective date of STELA. The NCTA contended that Section 111(d)(1)(D) prevents copyright owners from bringing an infringement action against a cable operator that computed its royalty obligations using the subscriber group methodology, and that this same provision extinguishes ''all direct or indirect claims that operators have outstanding 'balances' of underpaid royalties as a result of their using that methodology.'' NCTA Comment at 5.

While this is one interpretation of Section 111(d)(1)(D), it is not the only one. As the Office explained in the notice of proposed rulemaking, a literal reading indicates that this provision shields cable operators from liability for an infringement action, but it does not eliminate the obligation to pay for the carriage of phantom signals prior to the enactment of STELA. Under the licensing framework that predated STELA, cable operators were expected to calculate their royalty obligations on a system-wide basis. If an operator failed to pay for a distant signal on a system-wide basis, the Office would notify the operator and record the balance due as an outstanding obligation. Until the operator satisfied this royalty obligation, the Office would not issue a refund for overpayments caused by misreporting a local signal as a distant signal or other reporting errors. The Office has followed this practice for more than 30 years.

The NCTA contended that the proposed regulation ''would effectively penalize cable operators who used the subscriber group methodology on statements of account for accounting periods occurring prior to 2010'' and that this is contrary to ''Congress' clear intent to hold cable operator's [sic] harmless for their past use of the subscriber group methodology.'' NCTA Comment at 2; NCTA Reply at 3. However, the NCTA has not cited any language in the statute or the legislative history that expressly overruled the Office's longstanding practice concerning refunds or offsets involving payments for phantom signals in the pre-STELA period. Section 111(d)(1)(D) simply states that a cable operator cannot be sued for infringement for failing to calculate its royalty obligation using the system-wide methodology on a Statement filed prior to the enactment of STELA. The fact that Congress eliminated a cause of action that could have been asserted before STELA does not mean that the obligation to use the system-wide methodology did not exist or that Congress retroactively eliminated that obligation prior to the 2010/1 accounting period. Nor does it mean that a cable operator should be able to pocket the difference if using the subscriber group method, rather than the system-wide method, resulted in an overpayment for accounting periods prior to 2010/1. Indeed, the statute specifically states that refunds or offsets arising out of the cable operators' use of the subscriber group methodology prior to the effective date of STELA are not permitted.

The NCTA contended that the proposed rule would prevent a cable operator from obtaining a refund or offset, even if the overpayment ''does not arise from the operator's use of subscriber group or system-wide reporting.'' NCTA Reply at 3. In other words, if the cable operator would otherwise be entitled to a refund or offset[6]—but for the fact that it calculated its royalty obligation using the subscriber group method rather than the system-wide method, and as a result, underpaid the royalties due under the system-wide method—then the operator is not entitled to a refund or offset under Section 111(d)(1)(D). That is indeed the effect of the regulation.

Cable operators presumably use the subscriber group method, because it lowers the amount of royalties owed under the statutory license. Indeed, in most of the refund requests at issue in this proceeding, the amount owed on the Statement of Account would be higher if the cable operator used the system-wide method instead of the subscriber group method to calculate its royalty obligation. In such cases, the operators are not entitled to a refund or offset, because the overpayments purportedly shown on their Statements of Account would not have occurred but for the fact that they calculated their royalty obligation using the subscriber group method rather than the system-wide method, which was the methodology in effect when the Statements were filed.

The NCTA contended that the proposed rule is inconsistent with the legislative history for the amendment to Section 111(d)(1)(D), but the quotes that the NCTA cited from the congressional debate do not support this view. At best, these quotes merely indicate that stakeholders disagreed over whether a cable operator should be required to pay for phantom signals and that the legislation was intended to resolve that longstanding dispute. The NCTA offered no language from the congressional debate indicating that Congress intended to change the method that should be used to calculate royalty obligations on Statements filed before the date of enactment. Nor is there any indication that Congress intended to overrule the Office's longstanding practice of declining to issue refunds or offsets to cable operators who failed to pay for phantom signals.

Finally, the NCTA contended that the proposed rule will cause ''confusion and uncertainty'' regarding the treatment of phantom signals. NCTA Reply at 2. However, the NCTA acknowledged that the instances where a cable operator used the subscriber group methodology and subsequently requested a refund ''are relatively rare,'' NCTA Comment at 1 n.3, and in fact, it provided only one example of alleged ''confusion and delay'' in its comments. Specifically, the NCTA predicted that the proposed rule would create uncertainty for Statements of Account filed for the second accounting period of 2010, because ''those statements were not due until after the effective date of STELA, but in some cases were filed before that date.'' NCTA Reply at 2, n.1. In fact, the Office did not receive any Statements of Account for the 2010/2 accounting period before the effective date of STELA, so the regulation will not cause any delay in connection with those Statements.[7] Moreover, the proposed rule draws a bright line that eliminates any confusion. Refunds on Statements of Account filed prior to the 2010/1 accounting period are based upon calculations of royalty obligations under the methodology that attributed carriage of a signal throughout the cable system rather than on the revised methodology adopted under STELA that requires calculations to be made based on carriage of signals within discrete communities.

[6] As the NCTA observed, an operator might be entitled to a refund if it incorrectly reported a local signal as distant or mistakenly paid royalties for a signal that was not carried anywhere on the system. *See* NCTA Reply at 3.

[7] As discussed above, STELA is effective as of February 27, 2010. The 2010/2 accounting period ended on December 31, 2010, and Statements of Account for that period were due on March 1, 2011.

List of Subjects in 37 CFR Part 201

Copyright, General provisions.

Final Regulations

In consideration of the foregoing, the Copyright Office amends part 201 of 37 CFR as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Amend § 201.17 by redesignating paragraphs (m)(1) through (4) as paragraphs (m)(2) through (5) and adding a new paragraph (m)(1) to read as follows:

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

* * * * *

(m) * * *

(1) Royalty fee obligations under 17 U.S.C. 111 prior to the effective date of the Satellite Television Extension and Localism Act of 2010, Public Law 111–175, are determined based on carriage of each distant signal on a system-wide basis. Refunds for an overpayment of royalty fees for an accounting period prior to January 1, 2010, shall be made only when all outstanding royalty fee obligations have been met, including those for carriage of each distant signal on a system-wide basis.

* * * * *

Dated: September 21, 2012.

Maria A. Pallante,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 2013–00171 Filed 1–8–13; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[FRL–9767–5]

Notice of Approval of Clean Air Act Outer Continental Shelf Minor Source/Title V Minor Permit Modification Issued to Shell Offshore, Inc. for the Kulluk Conical Drilling Unit

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice announces that EPA Region 10 has issued a final decision granting Shell Offshore Inc.'s (''Shell'') request for minor modifications of Clean Air Act Outer Continental Shelf (''OCS'') Minor Source/Title V Permit No. R10OCS03000 (''permits''). The permits authorize air emissions associated with Shell's operation of the Kulluk Conical Drilling Unit (''Kulluk'') in the Beaufort Sea to conduct exploratory oil and gas drilling.

DATES: January 9, 2013.

ADDRESSES: The documents relevant to the above-referenced permits are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, AWT–107, Seattle, WA 98101. To arrange for viewing of these documents, call Natasha Greaves at (206) 553–7079.

FOR FURTHER INFORMATION CONTACT: Natasha Greaves, Office of Air Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 6th Avenue, Suite 900, AWT–107, Seattle, WA 98101.

SUPPLEMENTARY INFORMATION: EPA Region 10 issued a final decision on the minor modifications of the permits on September 28, 2012. The modified permits also became effective on that date, and the 30-day period provided by 40 CFR 71.11(l) to file with the Environmental Appeals Board (''EAB'')