

accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) Considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a

determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 11, 2002.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

**PART 917—KENTUCKY**

1. The authority citation for part 917 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 917.15 is amended by adding a new entry to the table in chronological order to read as follows:

**§ 917.15 Approval of Kentucky regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* May 9, 2000 .....	* April 30, 2002 .....	* House Bill 502, Part IX, Subsection 36(b), KRS 350.085(6).

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**LIBRARY OF CONGRESS**

**Copyright Office**

**37 CFR Parts 252 and 257**

[Docket No. 2002-5 CARP]

**Filing of Claims for Cable and Satellite Royalties**

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

**ACTION:** Waiver of regulation.

**SUMMARY:** Due to the continued disruption in the delivery of mail, the Copyright Office of the Library of Congress is announcing alternative methods for the filing of claims to the cable and satellite royalty funds for the year 2001. In order to ensure that their claims are timely received, claimants are encouraged to file their cable and satellite claims electronically, utilizing the special procedures described in this document.

**EFFECTIVE DATE:** April 30, 2002.

**ADDRESSES:** If hand delivered, an original and two copies of each claim should be brought to: Office of the Copyright General Counsel, James

Madison Memorial Building, Room 403, First and Independence Avenue, SE, Washington, DC 20540 from July 1, 2002 through July 31, 2002. Submissions by electronic mail should be made to the following: for cable claims "[cableclaims@loc.gov](mailto:cableclaims@loc.gov)"; for satellite claims "[satclaims@loc.gov](mailto:satclaims@loc.gov)". See **SUPPLEMENTARY INFORMATION** for information about on-line electronic filing through the Copyright Office website. If sent by mail, an original and two copies of each claim should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC. 20024.

**FOR FURTHER INFORMATION CONTACT:** Tanya Sandros, Senior Attorney or Susan Grimes, CARP Specialist, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 111 of the Copyright Act, 17 U.S.C., places a statutory obligation on cable systems who retransmit over-the-air broadcast signals to submit royalty fees to the Copyright Office for such retransmissions. Distribution of the royalty fees is made to copyright owners whose works were embodied in those retransmissions made by cable systems. 17 U.S.C. 111(d)(3). In order to claim eligibility for a distribution of cable royalty fees, a claimant must submit to the Copyright Office a claim during the month of July following the calendar year in which the retransmission took place. 17 U.S.C. 111(d)(4)(A). The regulations governing the content and submission of cable claims are found at 37 CFR part 252.

Likewise, copyright owners whose works were embodied in over-the-air television broadcast signals retransmitted by satellite carriers may seek a distribution of the satellite royalty fees collected by the Copyright Office. 17 U.S.C. 119. Eligibility for satellite royalty fees is predicated upon the submission of a claim in the month of July following the calendar year in which the retransmission took place. 17 U.S.C. 119(b)(4)(A). The regulations governing the content and submission of satellite claims are found at 37 CFR part 257.

For both a cable and a satellite claim, a claim is considered timely filed with the Copyright Office if it is hand delivered to the correct office within the Copyright Office during the month of July, or if it is mailed to the correct address and it bears a July U.S. Postal Service postmark. See 37 CFR 252.4 (cable); 37 CFR 257.4 (satellite). The regulations do not provide for the filing of cable and satellite claims by alternative methods such as electronic submission and, until now, the Office has perceived no need for alternative methods in filing these claims.

Unfortunately, recent events, namely the concerns about anthrax in the United States Postal Service facilities in the District of Columbia, have caused severe disruptions of postal service to the Office since October 17, 2001. See 66 FR 62942 (December 4, 2001) and 66 FR 63267 (December 5, 2001). While mail delivery to the Office has now

resumed, it has been sporadic and all incoming mail continues to be diverted to an off-site location for treatment, considerably delaying its delivery. Consequently, in light of these disruptions and delays, the Office is offering and recommending alternative methods for the filing of cable and satellite claims to the 2001 royalty funds. The alternative methods set forth in this Notice apply only to the filing of cable and satellite claims for the 2001 royalties which are due by July 31, 2002, and in no way apply to other filings with the Office.

Whatever method you choose to use in filing your claims for royalties, you are strongly advised to send your claims early in the month of July. Persons submitting claims at the end of the month risk missing the deadline for submission of claims.

This Notice covers only the means by which claims may be accepted as timely filed; all other filing requirements, such as the content of claims, remain unchanged, except as noted herein. See 37 CFR parts 252 (cable) and 257 (satellite).

**Acceptable Methods of Filing Cable and Satellite Claims for the Year 2001**

Claims to the 2001 cable and satellite royalty funds may be submitted as follows:

*a. Hand Delivery*

In order to best ensure the timely receipt by the Copyright Office of their cable and satellite claims, the Office encourages claimants who do not file their claims electronically to deliver their claims personally by 5 p.m. E.S.T. during the month of July, 2002, and no later than July 31, 2002, to the Office of the Copyright General Counsel, James Madison Memorial Building, Room 403, First and Independence Avenue, SE, Washington, DC. Private carriers should not be used for such delivery, as packages brought in by private carriers may be subject to treatment at the off-site facility before being delivered to the Office and may be deemed untimely and rejected unless the treated package is received by the Office of the Copyright General Counsel by 5 p.m. E.S.T. on July 31, 2002. Thus, claims should be hand delivered by the claimant or a representative of the claimant (i.e., the claimant's attorney or a member of the attorney's staff).

Claimants hand delivering their claims should note that they must follow all provisions set forth in 37 CFR parts 252 and 257.

*b. Electronic Mail Submission*

Claimants may submit their claims via electronic mail as file attachments. Cable claims should be sent to "[cableclaims@loc.gov](mailto:cableclaims@loc.gov)". Satellite claims should be sent to "[satclaims@loc.gov](mailto:satclaims@loc.gov)". These electronic mailboxes will not be operational before July 1, 2002. The Office has devised forms for both single and joint cable and satellite claims. The form for cable claims is posted at "<http://www.copyright.gov/carp/cable/claims.html>". The form for satellite claims is posted at "<http://www.copyright.gov/carp/satellite/claims.html>". These forms will be available at these locations by July 1, 2002. Claimants filing their claims via electronic mail must use these and only these forms, and the forms must be sent in either Adobe Portable Document ("PDF") format, in Microsoft Word Version 10.0 or earlier, or in WordPerfect 9.0 or earlier. Claims sent as attachments using formats other than those specified in this Notice will not be accepted. Likewise, claims sent as text messages, and not as attachments, will also be rejected.

It is critically important that cable and satellite claims be sent to the correct, separate electronic mail addresses. Claims that are sent to the wrong address (e.g. a cable claim sent to "[satclaims@loc.gov](mailto:satclaims@loc.gov)") will not be accepted.

When filing claims electronically, all provisions set forth in 37 CFR parts 252 and 257 apply except §§ 252.3(b) and 257.3(b), which require the original signature of the claimant or of the claimant's duly authorized representative on the claim. The Office is waiving this provision for this filing period because at this time the Office is not equipped to receive and process electronic signatures.

Claims filed by electronic mail must be received by the Office no later than 11:59 p.m. E.S.T. on July 31, 2002. Specifically, the electronic message must be received in the Office's server by that time. Any claim received after that time will be considered untimely filed. Claimants will receive an electronic mail message in response stating that the Office has received their submission. Therefore, claimants submitting their claims via electronic mail are strongly encouraged to send their claims no later than July 30, 2002, in order to better ensure timely receipt by the Office and to allow sufficient time to receive the electronic mail message that the submission has been received.

### c. On-line Submission

The Office has devised on-line electronic forms for filing both single and joint cable and satellite claims from July 1, 2002 through July 31, 2002. Claimants will be able to access and complete the forms via the Copyright Office website and may submit the forms electronically as provided in the instructions accompanying the forms. Cable forms will be posted on the Office website at "<http://www.copyright.gov/carp/cable/claims.html>". Satellite forms will be posted at "<http://www.copyright.gov/carp/satellite/claims.html>".

Both cable and satellite on-line forms will be available for use during the month of July. It is critically important to follow the instructions in completing the forms before submitting them to the Office. Claims submitted on the wrong form (e.g. a cable claim submitted on a satellite form) will not be accepted. Claimants filing their claims electronically must use these and only these forms. Claims submitted on-line using forms or formats other than those provided at "<http://www.copyright.gov/carp/cable/claims.html>" and "<http://www.copyright.gov/carp/satellite/claims.html>" will not be accepted. Claims filed on-line must be received by the Office no later than 11:59 p.m. E.S.T. on July 31, 2002. Specifically, the completed electronic forms must be received in the Office's server by that time. Any claim received after that time will not be considered timely filed. Claimants will receive an electronic mail message in response stating that the Office has received their submission. Therefore, claimants submitting their claims on-line are strongly urged to submit their claim no later than July 30, 2002 in order to better assure timely receipt by the Office and to allow sufficient time to receive the electronic mail message that the submission has been received.

### d. By Mail

Sections 252.4(a)(2) and 257.4(a)(2) direct claimants filing their claims by mail to send the claims to the Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Claimants electing to send their claims by mail are encouraged to send their claims by certified mail return receipt requested, to have the certified mail receipt (PS Form 3800) stamped by the United States Postal Service, and to retain the certified mail receipt in order to provide proof of timely filing, in the event that the claim reaches the Office after the last day in July. In the event there is a question as

to whether the claim was deposited with the United States Postal Service during the month of July, the claimant must produce the certified mail receipt (PS Form 3800) which bears a United States Postal Service postmark, indicating an appropriate date.

As noted above, disruption of the mail service and delivery of incoming mail to an off-site decontamination center have considerably reduced the timeliness of receipt of mail by the Copyright Office. It is conceivable, if not likely, that cable and satellite claims mailed to the Office in July may not arrive until many months thereafter. Such delays will hamper the Office's ability to compile a claimant list, and may dramatically affect the Office's ability to make partial distributions of cable and satellite funds not in controversy.<sup>1</sup> Consequently, claimants are strongly urged not to use the mail as a means of filing their claims to the 2001 cable and satellite royalty funds. Those who do use the mail are advised to send their claims early in the month of July. While the Office is not prohibiting the filing of claims by mail, those who do so assume the risk that their claim will not reach the Office in a timely manner, or at all, and/or that the mail, when received by the Office, will be significantly damaged. Claims sent by mail should be addressed in accordance with §§ 252.4(a)(2) and 257.4(a)(2), and the Office again strongly encourages the claimant to send the claim by certified mail return receipt requested, to have the certified mail receipt (PS Form 3800) stamped by the United States Postal Service, and to retain the certified mail receipt, as it constitutes the only acceptable proof of timely filing of the claim. Claims dated only with a business meter that are received by the Office after July 31, 2002, will be rejected as being untimely filed. Claimants who have ignored this rule have had their claims rejected.

When filing claims by this method, claimants must follow all provisions set forth in 37 CFR part 252 for cable claims and part 257 for satellite claims.

### Faxes Not Permitted

Although the Copyright Office permitted the submission of 2001 Digital Audio Recording Technology ("DART") claims via facsimile transmission, the Office has determined that, due to the high volume of cable and satellite claims received by the Office relative to DART claims, it is

<sup>1</sup> The Office also notes that some of the mail it has recently received was damaged due to handling and the decontamination process. Damage or destruction of claims sent by mail could adversely affect a claimant's eligibility for cable or satellite royalties.

impractical to permit the faxing of cable and satellite claims. Consequently, any cable or satellite claims received by the Copyright Office via facsimile transmission will not be accepted.

### Waiver of Regulation

The regulations governing the filing of cable and satellite claims require "the original signature of the claimant or of a duly authorized representative of the claimant." § 252.3(b) (cable); § 257.3(b) (satellite). This Notice however, waives these provisions as set forth herein solely for the purpose of filing claims to the 2001 cable and satellite royalty funds. The Office is not waiving the statutory deadline for the filing either cable or satellite claims, a deadline the Office has no power to waive. *See, United States v. Locke*, 471 U.S. 84, 101 (1985). Thus, claimants are still required to file their claims by July 31, 2002.

Waiver of an agency's rules is "appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest." *Northeast Cellular Telephone Company v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also, *Wait Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972). Under ordinary circumstances, the Office is reluctant to waive its regulations. However, the recent disruption in the delivery of the mail constitutes a special-indeed, an extraordinary—circumstance which has forced the Office to deviate from its usual mail processing procedures. Thus, given such uncertainties, the Office believes that the public interest will best be served by waiving, for this filing period only, the requirement that cable and satellite claims bear the original signature of the claimant or of a duly authorized representative of the claimant when, and only when, such claim is filed electronically.

Dated: April 25, 2002.

**David O. Carson,**  
General Counsel.

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 65

[Docket No. FEMA-B-7428]

### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency  
Management Agency (FEMA).

**ACTION:** Interim rule.