

line joint claim form or may submit the list of joint claimants as a file attachment to the submission page. Lists of joint claimants sent as an attachment must be in a single file in either Adobe Portable Document ("PDF") format, in Microsoft Word Version 2000 or earlier, in WordPerfect 9 or earlier, or (in the case of text-only files) in ASCII text. There will be an "attach" button on the form that will allow claimants to attach the file containing the list of joint claimants and then to submit the completed form to the Office. The attachment must contain only the names and addresses of the joint claimants. See 37 CFR 252.3(b)(1) and 257.3(b)(1).

The cable and satellite 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-line using forms or formats other than those specified in this Notice will not be accepted by the Office. Claims filed on-line must be received by the Office no later than 11:59 p.m. E.S.T. on July 31, 2003. Specifically, the completed electronic forms must be received by the Office's server by that time. Any claim received after that time will be considered as untimely filed. Claimants who file electronically will receive an electronic mail message in response, stating that the Office has received their submission. Therefore, claimants utilizing this filing option are required to provide an e-mail address. Claimants submitting their claims on-line are strongly encouraged to send their claim no later than July 30, 2003, in order to better ensure timely receipt by the Office.

When filing claims on-line, all provisions set forth in 37 CFR part 252 and 257 apply except §§ 252.3(b)(5) and 257.3(b)(5), 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.

#### *c. 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 secure the only acceptable proof of a timely filing. 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. 37 CFR 252.4(e) and 257.4(e). Claimants whose claims were received after July 31, with only a business meter mark, and who have been unable to produce the certified mail receipt, have had their claims rejected as untimely.

As noted above, disruption of the mail service and delivery of incoming mail to an off-site screening center have reduced the timeliness of receipt of mail by the Copyright Office. Such delays may hamper the Office's ability to compile a claimant list, and may affect the Office's ability to make partial distributions of cable and satellite funds not in controversy.<sup>1</sup> Consequently, the Office suggests that claimants use the mail only if none of the other methods outlined above are feasible. 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, 2003, 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 2002 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 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.

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

#### **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 2002 cable and satellite royalty funds. The Office is not waiving the statutory deadline for 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, 2003.

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 continued problems with the delivery of the mail constitutes a special 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: May 23, 2003.

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

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[KY 147-200329; FRL-7505-3]**

#### **Approval and Promulgation of Implementation Plans, Kentucky: Approval of Revisions to Maintenance Plan for Northern Kentucky**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the state implementation plan (SIP) of the Commonwealth of Kentucky to