

proposed rule. Accordingly, the comment period has been extended by 30 days and written comments must now be submitted (sent or postmarked) by February 28, 2008.

## II. Submission of Comments and Access to Comments

You may submit comments in response to this document (1) electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments and other material must identify the Agency name and the OSHA docket number for this rulemaking (Docket No. OSHA-2007-0026). You may supplement electronic submissions by uploading document files electronically. If, instead, you wish to mail additional materials in reference to an electronic or fax submission, you must submit three copies to the OSHA Docket Office (see **ADDRESSES** section). The additional materials must clearly identify your electronic comments by name, date, and docket number so OSHA can attach them to your comments.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office (see **ADDRESSES** section).

Comments and submissions in response to this **Federal Register** notice are posted without change at <http://www.regulations.gov> (Docket No. OSHA-2007-0026). Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth.

Although all submissions in response to this **Federal Register** notice and all supporting materials cited in the Confined Spaces in Construction proposal are listed in the <http://www.regulations.gov> and <http://dockets.osha.gov> indexes, some information (e.g., copyrighted material) is not publicly available to read or download from that Web page. All submissions and supporting materials, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the <http://www.regulations.gov> Web page to submit comments is available at the Web page's User Tips link. Contact the OSHA Docket Office for information about materials not available through the Web pages and for assistance in

using the Internet to locate docket submissions.

Electronic copies of this **Federal Register** document are available at <http://www.regulations.gov>. This document, as well as news releases and other relevant information, also are available at OSHA's Web page at <http://www.osha.gov>.

### Authority and Signature

This document was prepared under the authority of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to Sections 4, 6, and 8 of the OSH Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 5-2007 (72 FR 31159), and 29 CFR part 1911.

Signed at Washington, DC this 17th day of January, 2008.

**Edwin G. Foulke, Jr.,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. E8-1081 Filed 1-22-08; 8:45 am]

**BILLING CODE 4510-26-P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 916

**[Docket No. OSM-2008-0001; Sats No. KS-024-FOR]**

#### Kansas Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Kansas regulatory program (Kansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kansas proposes revisions to its 2002 Kansas Revegetation Guidelines and its Normal Husbandry Practices. Kansas intends to update obsolete information used in determining the forage production success standard for warm season native grasses. Kansas also proposes to update their normal husbandry practices to increase clarity and to update references to other Agencies technical guidelines. These documents give the times and locations that the Kansas programs and proposed amendments to that program are

available for your inspection, the comment period during which you may submit written comments on the amendments, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., c.d.t., February 22, 2008. If requested, we will hold a public hearing on the amendment on February 19, 2008. We will accept requests to speak at a hearing until 4 p.m., c.d.t. on February 7, 2008.

**ADDRESSES:** You may submit comments, identified by Docket No. OSM-2008-0001, by any of the following methods:

- Mail/Hand Delivery: Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101 St East Avenue, Tulsa, Oklahoma 74128.

- Federal eRulemaking Portal: <http://www.regulations.gov>. The proposed rule has been assigned Docket ID: OSM-2008-0001. If you would like to submit comments through the Federal eRulemaking Portal, go to [www.regulations.gov](http://www.regulations.gov) and do the following. Click on the "Advanced Docket Search" button on the right side of the screen. Type in the Docket ID (OSM-2008-0001) and click the "Submit" button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on OSM-2008-0001, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: In addition to obtaining copies of documents at [www.regulations.gov](http://www.regulations.gov), you may review copies of the Kansas program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, at the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office. Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101 St East Avenue, Tulsa, Oklahoma 74128-6547, Telephone: (918) 581-6430, E-mail: [aclayborne@osmre.gov](mailto:aclayborne@osmre.gov).

In addition, you may review a copy of the amendment during regular business

hours at the following location: Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, Kansas 66763, Telephone: (316) 231-8540.

**FOR FURTHER INFORMATION CONTACT:**

Alfred L. Clayborne, Director, Tulsa Field Office. Telephone: (918) 581-6430. E-mail: [aclayborne@osmre.gov](mailto:aclayborne@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Kansas Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

**I. Background on the Kansas Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, “\* \* \* a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kansas program on January 21, 1981. You can find background information on the Kansas program, including the Secretary’s findings, the disposition of comments, and the conditions of approval, in the January 21, 1981, *Federal Register* (46 FR 5892). You can also find later actions concerning the Kansas program and program amendments at 30 CFR 916.10, 916.12, 916.15, and 916.16.

**II. Description of the Proposed Amendment**

By letter dated November 19, 2007 (Administrative Record No. 626 and 627), Kansas sent us amendments to its program under SMCRA (30 U.S.C. 1201, *et seq.*). Kansas sent the amendments in one package, identifying the Revegetation Success Guidelines as KS-024-FOR and the Normal Husbandry Practices as KS-025-FOR. We have combined these both under one docket number (KS-024-FOR). Kansas submitted these amendments at their own initiative. Below is a summary of the changes proposed by Kansas. The full text of the program amendments are available for you to read at the locations listed above under **ADDRESSES**.

Kansas determined that a portion of its currently approved 2002 Revegetation Guidelines contains information that needs to be updated.

During a review of its revegetation guidelines, the State found that Appendix C, USDA-SCS Technical Guide Notice KS-145 (KS-415) lists an animal unit month (AUM) value that yields an extremely low production rate. The AUM value is used to calculate the forage production success standard for warm season native grasses. Upon discovering this, Kansas contacted the USDA Natural Resources Conservation Service (NRCS) who informed the State that KS-415 is now considered obsolete. Because of this, Kansas proposes to no longer allow Kansas coal operators to use KS-415 in determining the forage production success standard for warm season native grasses only. Kansas coal operators will continue to use KS-415 for determining forage production success standards for wheat, grain sorghum, and soybeans. In order to calculate the forage production success standard for any area seeded to warm season native grasses where the postmining land use requires both cover and production data, Kansas proposes to replace KS-415 with the NRCS’s “Electronic Field Office Technical Guides” for rangeland, grazed forestland, and native pastureland interpretations for Linn, Crawford, Cherokee, and Bourbon Counties. Kansas also proposes that the forage production success standard established in each permit be based on the total dry weight production listed for an average year.

Kansas Department of Health and Environment (KDHE) proposes to update the approved selected husbandry practices which are considered to be normal in Kansas. Utilization of these practices will not result in the KDHE mandating an extension to the period of responsibility for revegetation success and bond liability. The probability of permanent revegetation failure will not be increased if the approved practices are discontinued after expiration of the liability period. Kansas suggests that the proposed practices are considered normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area. They include such practices as mowing, liming, fertilization, disease, pest and vermin control; and any pruning, reseeding, and transplanting specifically necessitated by such actions. Practices not approved, and which will result in an extension of the liability period, include any seeding, fertilization, or irrigation performed at levels which exceed those normally applied in maintaining comparable unmined land in the surrounding area.

In determining what is an approved selective husbandry practice, evaluations shall include Surface Mining Section (SMS) Professional Judgments, the incorporation of guidelines provided by approved source documents, and information provided by Kansas State University (KSU) and the United States Department of Agriculture, Natural Resources Conservation Service (NRCS). Both NRCS and KSU have established and published many recommended fertility and management practices for row crops, hayland, and grazingland tailored for soil conditions, crop rotations, tillage and application practices.

If this amendment is approved, the SMS will compare the proposed management practices on mined land with recommended practices provided by KSU and NRCS to determine if the mined land practices can be considered normal husbandry. Through the routine inspection process, the SMS will monitor liability start dates, liming and fertilization activities and evaluate and determine the success of the reclamation. If the SMS determines site specific management practices are outside the normal husbandry practices, a decision will be made whether or not the liability period must restart.

On all lands with a postmining land use in perennial cover, the SMS shall consider limited reseeding and associated fertilization and liming as non-augmentative if the cumulative area is small. Reseeding of small areas without restarting the period of operation responsibility shall be left up to the judgment of the SMS in conjunction with the NRCS or KSU Extension Agriculture Service and in no case shall the cumulative areas reseeded be greater than 3 acres or 10% of the permit area whichever is less. Exceptions to this maximum size may be made if the area is comprised of a waterway, terrace or other water control structures. In all cases, the reestablished vegetation shall be in place for a sufficient length of time to not adversely affect the SMS’s ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed.

Approved normal husbandry practices conducted in consultation with KSU or NRCS are not considered augmentation. Evidence of consultation may be required by the SMS. Practices listed in the following documents are approved:

Kansas State University Publications, Established Native Grasses, October 1997

Native Hay Meadow Management, July 1992

Trees and Shrubs for Difficult Sites, February 2006

Fertilization Trees, May 2001

Chemical Weed Control in Tree Planning, March 2001

Weed Control Options in Tree Planting, February 2006

Tree Planting Guide, June 2004

Tall Planting Guide, June 2004

Tall Fescue Production and Utilization, April 1994

Maintaining Grass Waterways, April 2004

Rangeland Weed Management, December 1991

United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Conservation Practice Standards

314 Brush Management

322 Channel Bank Vegetation

327 Conservative cover

656 Constructive Wetland

332 Contour Buffer Strips

340 Cover Crop

341 Critical Area Planting

362 Diversion

647 Early Successional Habitat Development/Management

386 Field Boarder

393 Filter Strip

511 Forage Harvest Management

666 Forest Stand Improvement

412 Grassed Waterway

484 Mulching

590 Nutrient Management

512 Pasture and Hay Planting

595 Pest Management

338 Prescribed Burning

528 Prescribed Grazing

550 Range Planting

329B Residue Management, Mulch Till

329A Residue Management, No Till/Strip Till

344 Residue Management, Seasonal

391 Riparian Forest Buffer

656 Shallow Water Management for Wildlife

580 Streambank and Shoreline protection

600 Terrace

612 Tree/Shrub Establishment

660 Tree/Shrub Pruning

645 Upland Wildlife Habitat Management

644 Wetland Wildlife Habitat Management

380 Windbreak/Shelterbelt Establishment

Kansas Forestry Technical Note KS-9 Tree/Shrub Establishment and Maintenance Guidelines

The repair of rills and gullies will not be allowed in the State of Kansas without restarting the revegetation

liability period, unless the occurrences and the treatment of such rills and gullies constitutes a normal conservation practice in the region as described below:

In the coal mining region of Kansas, the normal range of precipitation during fall or spring seeding seasons may result in the formation of rills and gullies during the initial establishment of a permanent vegetation cover for any land use. The NRCS has prepared guidelines for the treatment of rills and gullies as part of their critical areas planting (CAP) process. The SMS has determined that the NRCS CAP for the treatment of rills and gullies in the coal mining regions of Kansas constitutes the treatment practice which is the usual degree of management customarily performed to prevent exploitation, destruction or neglect of the soil resources and maintain the productivity of the land uses. This treatment would not be considered an augmented practice because the NRCS guidance is the standard development for the normal treatment of rills and gullies that may develop during the initial establishment of a permanent cover of vegetation on unmined lands in Kansas. If the use of the NRCS guidelines to control rills and gullies under CAP does not stop erosion, any continued treatment of rills and gullies after the initial vegetative establishment would be considered an augmented practice that would restart the liability period. In addition, the KDHE SMS defines the treatment of rills and gullies requiring a permanent reseeding of more than 10 acres in a contiguous block, or 10 percent of the permit area initially seeded during a single year, to be an augmented practice because of the potential for delay of seeding large area to reduce the probability of revegetation success.

CAP requires active furrows, rills, ditches, or gullies be filled to aid the conservation practices application. The rills and gullies should be filled with topsoil, if the eroding site is not large, or contoured and/or smoothed if the site is large. The area must be seeded during the appropriate seeding season with approved perennial species followed by an application of mulch. If permanent seeding of the area must be delayed due to weather condition, then appropriate temporary erosion control measures must be utilized. Mulch that is to be applied must be free of noxious weeds including Johnson grass and sericea lespedeza, anchored during or immediately after application, and be applied at the following rates:

1. *Native hay or straw*: Apply at the rate of 2 tons/acre and crimp into the soil. Native hay mulch should be less

than two (2) years old. Where appropriate based on surrounding vegetation, cool season (fescue) hay may be used. Apply at the rate of 2 tons/acre and crimp into the soil.

2. *Wood chips*: Apply at the rate of 11–15 tons/acre.

3. *Straw manure*: Apply at the rate of 10 tons/acre. Straw manure need not be anchored if it contains heavy solids.

The use of fabric, hay bales, and/or designed rock riprap structure to fill or repair rills and gullies will be approved on a case-by-case basis. Monitoring of these areas will be required to assure that the treatment provides long-term erosion control, does not disrupt the post mining land use, and that the permanent vegetation becomes established. If this treatment is not effective, then filling of the rills and gullies with topsoil and revegetation will be required. Depending on site conditions, terracing, erosion control fabric, wattles, or other measures may be needed to control erosion until vegetation is established. If the drainage area is of a sufficient size to create continued problems with rills and gullies, the operator will install terraces to control the amount and/or velocity of water moving across the area. These terraces will be designed and constructed in accordance with K.A.R. 47–9–(c)(9).

Liming, fertilization, mulching, seeding or stocking (stems) following the reclamation of any temporary roads, temporary sediment or hydraulic control structures, or areas where the vegetation was disturbed by vehicular traffic not under the control of the permittee shall not be considered augmentation.

Reliming and/or refertilization of revegetated areas, reseeding cropland in annual crops; or renovating pastureland or cropland areas in perennial cover by over seeding with legumes after a phase II bond release shall be considered normal husbandry practices and shall not restart the liability period if the amount and frequency of these practices do not exceed normal husbandry practices used on unmined land within the region. Other normal husbandry practices that may be conducted on postmining land uses of fish and wildlife habitat, recreation, and forestry without restarting the liability period are disease, pest, and vermin control; and any pruning, reseeding, and transplanting specifically necessitated by such actions. Replanting more than 20% of the trees/shrubs needed to meet the established technical success will restart the 5-year liability time clock. Trees and shrubs counted in determining the success of stocking

shall be healthy and have been in place for not less than two growing seasons. At the time of bond release, at least 80% of the trees and shrubs used to determine such success shall have been in place for a minimum of three years.

### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

#### Written Comments

Send your written or electronic comments to OSM at one of the two addresses given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than the two listed above will be included in the docket for this rulemaking and considered.

#### Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on February 7, 2008. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and

wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

#### Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

### IV. Procedural Determinations

#### Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

#### Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

#### Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

#### Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the

purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in 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 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. This determination is based on the fact that the Kansas program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Kansas program has no effect on Federally-recognized Indian tribes.

#### 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, which 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, which 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, which 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 916**

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 26, 2007.

**Len Meier,**

*Acting Regional Director, Mid-Continent Region.*

[FR Doc. E8-1113 Filed 1-22-08; 8:45 am]

**BILLING CODE 4310-05-P**

**LIBRARY OF CONGRESS****Copyright Office****37 CFR Part 201**

[Docket No. RM 2008-1]

**Recordation of Notices of Termination of Transfers and Licenses; clarifications**

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

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Copyright Office is proposing to make clarifications to its regulations governing the recordation of notices of termination and certain related provisions. This notice seeks public comment on the proposed amendments, which would communicate the Office's practices as to notices of termination that are untimely filed; clarify the fact that a notice of termination is not legally sufficient simply because it has been recorded; update the legibility requirements for all recorded documents, including notices of termination; make minor explanatory edits to the fee schedule for multiple titles within a document (adding notices of termination as an example); and create a new mailing address to which notices of termination should be sent.

**DATES:** Written comments are due February 22, 2008. Reply comments are due March 24, 2008.

**ADDRESSES:** If hand delivered by a private party, an original and five copies of any comment should be brought to Room LM-401 of the James Memorial Building between 8:30 a.m. and 5 p.m. and the envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, James Memorial Building, Room LM-401, First and Independence Avenue, SE, Washington, DC 20559-6000.

If hand delivered by a commercial courier, an original and five copies of any comment must be delivered to the Congressional Courier Acceptance Site located at Second and D Streets, NE, Washington, DC, between 8:30 a.m. and 4 p.m. The envelope should be

addressed as follows: Office of the General Counsel, U.S. Copyright Office, Room LM-403, James Madison Memorial Building, First and Independence Avenue, SE, Washington, DC 20559-6000.

If sent by mail, an original and five copies of any comment should be addressed to: Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service or DHL, due to delays in processing receipt of such deliveries.

**FOR FURTHER INFORMATION CONTACT:** Maria Pallante, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone (202) 707-8380. Fax (202) 707-8366.

**SUPPLEMENTARY INFORMATION:****Background**

In addition to its legal, regulatory and policy responsibilities, the Copyright Office is an office of public record which receives and records documents that pertain to copyright. Such documents include notices of termination, which may be served by authors (and some heirs of authors) to extinguish certain exclusive or nonexclusive grants of transfers or licenses of copyright or the divisible rights thereunder.

The termination provisions are set forth in Sections 304(c), 304(d) and 203 of the 1976 Copyright Act, Title 17 of the United States Code. The provisions have an equitable function; they exist to allow authors or their heirs a second opportunity to share in the economic success of their works. The House Report accompanying the 1976 Copyright Act states that the provisions are "needed because of the unequal bargaining position of authors, resulting in part from the impossibility of determining a work's value until it has been exploited." H.R. Rep. No. 94-1476, at 124 (1976). The law provides for termination according to the time table and prescription set forth in each respective section, including mandatory, timely recordation with the Copyright Office.<sup>1</sup>

Section 304(c) governs any work in which the copyright was subsisting in its first or renewal term as of January 1, 1978, and provides for termination of a grant at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured. Section 304(d) provides a termination right for a subset of works for which the termination right

<sup>1</sup>The provisions exclude grants made by will and works for hire.