

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2016–8]

Group Registration of Contributions to Periodicals

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The United States Copyright Office is modernizing its registration practices to increase the efficiency of the registration process for both the Office and copyright owners. To further these efforts, this final rule adopts modifications to the Office's procedures for group registration for contributions to periodicals. Specifically, the Office adopts a new requirement that applicants seeking copyright registrations for groups of contributions to periodicals must submit applications through the Office's electronic registration system; modifies the deposit requirement by requiring applicants to submit their contributions in a digital format and to upload those files through the electronic system; clarifies the eligibility requirements; and alters the administrative classes used for such registrations.

DATES: Effective July 31, 2017.

FOR FURTHER INFORMATION CONTACT: Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice, or Erik Bertin, Deputy Director of Registration Policy and Practice, by telephone at 202–707–8040, or Emma Raviv, Barbara A. Ringer Fellow, by telephone at 202–707–3246.

SUPPLEMENTARY INFORMATION:**I. Background**

On December 1, 2016, the Copyright Office (the “Office”) published a Notice of Proposed Rulemaking (“NPRM”) setting forth proposed regulatory amendments designed to make the procedure for group registration of contributions to periodicals (“GRCP”) more efficient. *See* 81 FR 86634 (Dec. 1, 2016). By statute, the Office is required to provide for “a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fee, under the following conditions—(A) if the deposit consists of one copy of the entire issue of the periodical, or of the entire section in the case of a

newspaper, in which each contribution was first published; and (B) if the application identifies each work separately, including the periodical containing it and its date of first publication.” 17 U.S.C. 408(c)(2); *see also* 37 CFR 202.3(b)(8).

The NPRM encompassed—and explained in detail the rationale for—four major changes to the GRCP registration procedure. First, the NPRM proposed amending the regulations to require applicants to register their contributions through the Office's electronic registration system (instead of submitting a paper application). Second, it proposed modifying the deposit requirements for this option by requiring applicants to submit a digital copy of each contribution and to upload these copies through the electronic registration system (instead of submitting a physical copy of each contribution).¹ Third, the NPRM proposed a modification requiring applicants to register their contributions either in Class TX or Class VA (but not Class PA), and to identify the date of publication for each contribution and the periodical where each contribution was first published. Fourth, the NPRM proposed modifying the eligibility criteria for the GRCP option by providing a more specific definition of the term “periodical,” and by specifically requiring the contributions to be owned by the same copyright claimant.

Authors Guild (“AG”) and National Writers Union (“NWU”) both submitted comments in response to the NPRM.² The commenters took no issue with the Office's proposal to issue all GRCP registrations in either Class TX or Class VA,³ or the requirement that the contributions must be owned by the same claimant. Commenters did express some concerns regarding the shift to online-only registration, as well as some additional concerns regarding technical aspects of the proposed rules, which are addressed below. Having reviewed and carefully considered the comments

¹ Although the statute specifies the specific kinds of deposit the Office must accept for the group option for contributions to periodicals—*i.e.*, “one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published”—the NPRM also explained how, consistent with the overall statutory scheme, the Office may accept deposits other than those set forth in that provision. 81 FR at 86640. No commenter took issue with the Office's interpretation of its authority to expand the deposits that may be accepted under this group registration option.

² The comments received in response to the NPRM can be found on the Copyright Office's Web site at <https://www.copyright.gov/rulemaking/grcp/>.

³ AG supported this proposal outright. AG Comments at 2.

received, bearing on the two other changes, the Office now issues a final rule that closely follows the proposed rule, with some alterations in response to the comments, as discussed below.⁴

II. Discussion of Comments**A. Online Filing Requirement**

After this final rule goes into effect, GRCP applicants will be required to use an online application specifically designed for GRCP as a condition for using this group option. The Office will no longer accept groups of contributions that are submitted with a paper application on Form TX, Form VA, Form PA, or Form GR/CP.

AG stated that it welcomed the introduction of an online application and predicted that it would “greatly increase the efficiency of the registration process,” create a more robust and easily-searchable public record, and for most authors will likely become the preferred mode for seeking a group registration. AG Comments at 1–2, 4. However, AG expressed concern that many authors are “well-accustomed” to the paper application or may not have access to broadband Internet service. AG Comments at 2. AG stated that the Office should gauge the demand for the paper application before issuing a final rule,⁵ and then gradually phase out the application after a specified period of time while providing adequate notice during the phase-out period. If the Office determined that a cognizable number of authors prefer to use the paper application, AG recommended that the Office continue to offer this form and offer “special dispensation” from the online filing requirement “on a case by case basis.” *Id.*

NWU, too, opposed the online filing requirement and urged the Office to retain the paper application, contending that the proposed rule would increase the burden on writers who use the group option. NWU Comments at 4.

The Office considered AG's and NWU's concerns, but has decided to implement the online application requirement and eliminate the paper application, with some exceptions and new resources in place to assist applicants. When the final rule goes into effect, applicants generally will be required to use the online application in

⁴ The final rule makes a few technical amendments to the rule as proposed. The rule will appear in § 202.4(g), rather than § 202.4(h) of the regulations, and the statutory definitions for “compilation” and “derivative work” have been incorporated by reference.

⁵ Authors Guild filed comments on behalf of its 9,000 members but apparently did not poll these individuals to determine if they would prefer to use a paper application or if they have Internet access.

order to seek a group registration for contributions to periodicals. Paper applications submitted on Form TX or VA with Form GR/CP will not be accepted.

The Office recognizes, however, that authors are accustomed to using the paper application. To ease the transition to the online application, the Office is developing several new resources. The Office will revise chapters 1100 and 1400 of the *Compendium of U.S. Copyright Office Practices, Third Edition* (hereinafter “*Compendium*”), which summarize the procedures for issuing registrations under this group option. The Office is also preparing a new circular which provides a general introduction to GRCP. The Office has added a notice to the instructions for Form GR/CP indicating that this form may not be used once the final rule goes into effect.

In addition, a provision has been added to the final rule permitting the Office to waive the online filing requirement in “an exceptional case” and “subject to such conditions as the Associate Register and Director of the Office of Registration Policy and Practice may impose on the applicant.” Authors who do not have Internet access and are unable to use the online application may contact the Office, and the Office will review the specific details of their cases and determine their eligibility.

The Office will then make accommodations for applicants who receive a waiver under this provision. One accommodation that the Office plans to implement will be to allow such applicants to contact the Public Information Office (“PIO”) by telephone for assistance in filling out the application. A member of the staff will ask the applicant to provide the information that is called for in the application, such as the titles of the works and the periodicals containing them, the volume or issue numbers and pages on which the contributions appeared, and the dates of first publication. PIO staff will enter this information into the electronic registration system. Then they will print a copy of the application and mail it to the applicant for his or her review. If the applicant approves the draft, he or she will sign the application and mail it back to the Office, along with a check to cover the filing fee. In providing this service, members of the PIO staff are not providing legal advice; their assistance is merely a service for convenience, and applicants remain responsible for providing accurate and complete information in their applications. Applicants should be aware that if they

use this option, the effective date for their group registration will be based on the date that the signed application, the filing fee, and deposits are received. At this time, the Office does not intend to charge an additional fee for applicants who submit applications with the assistance of PIO. The Office will track the number of applicants who use this option and the amount of time needed to handle these requests. The Office will use this information in conducting its next fee study.

B. Deposit Requirements

The final rule states that applicants must submit a complete copy of each contribution that is included in the group, and may satisfy this requirement by submitting one copy of the entire issue of the periodical in which the contribution was first published, the entire section of a newspaper in which the contribution was first published, or just a copy of the contribution in the precise form in which it was first published in the periodical (*i.e.*, a copy of the particular pages within the periodical where the contribution was first published). These submissions must be digital copies in Portable Document Format (“PDF”), JPEG format, or other electronic format specifically approved by the Office, and must be submitted through the electronic registration system.

AG agreed that requiring applicants to upload a copy of their works in a digital format would increase the efficiency of the group registration option. AG Comments at 4. But AG expressed concern that this may be “overly burdensome” for authors “who have not made the complete transition from analog to digital.” *Id.*

NWU also objected to this proposal. NWU contended that authors would need “PDF creation software and a flatbed scanner with a platen large enough to scan entire pages of a magazine or newspaper.” NWU Comments at 7. NWU contended that this type of equipment is expensive and that authors who live outside major metropolitan areas may not have access to a copy shop with a scanner large enough to create a PDF of an entire page from the newspaper. *Id.* To avoid this burden, NWU urged the Office to allow authors to submit their works in a hard copy form, or alternatively, to eliminate the deposit requirement altogether. *Id.* at 8–9.⁶

⁶ NWU notes that many authors “create and submit their works to periodicals in word processor, text, or HTML file formats, not as the PDF files or page images required by the proposed rules,” but does not suggest that the version of a work as submitted to the publisher would suffice.

As a preliminary matter, the Office notes that many periodicals publish electronic replicas of their periodicals in downloadable or printable format.⁷ It may also be possible for authors to obtain a digital copy in the precise form it was published in the periodical from the periodical publisher directly. As for NWU’s contention that special equipment would be needed to create a PDF copy of a contribution that appeared in a magazine or newspaper, the Office notes that even standard home office equipment will generate an acceptable deposit. Most magazines fit comfortably on a multi-function printer or scanner capable of copying a page sized 8½ x 11” or 11 x 17”—machines many applicants already possess, or can access at a local library or copy shop. And a newspaper could be scanned simply by folding the page in half and scanning the upper and lower portion of that page.

Even a scanner is not necessary to generate an acceptable file. The vast majority of the U.S. population owns a cell phone; as of 2016, Pew Research Center estimated that 77% of American adults owned a smartphone, and that number continues to rise.⁸ Most smartphones contain a camera that can be used to take a photograph and save that image as an electronic file; indeed, 95% of cameras sold in 2014 were smartphone cameras.⁹ In addition, there are many free apps that permit a smartphone camera to be used as a PDF scanner.¹⁰ Thus, even if an author does not have access to a household scanner, and does not have access to a local merchant or library that provides

See NWU Comments at 6. In many cases these works are further edited by the publisher after being received from the author. And as noted in the NPRM, a copy of the work in the precise form it was published provides better proof that the work was indeed published in a periodical. 81 FR at 86640.

⁷ See, e.g., the Washington Post’s e-Replica edition, at <http://thewashingtonpost.pressreader.com/the-washington-post>. With a subscription, a person can right-click on any article and print it; some browsers, including Google Chrome, will allow you to “print” the article as a PDF file.

⁸ See Aaron Smith, *Record shares of Americans now own smartphones, have home broadband*, Pew Research Center (Jan. 12, 2017), <http://www.pewresearch.org/fact-tank/2017/01/12/evolution-of-technology/>.

⁹ Tomi T. Ahonen, *Camera Stats: World has 5.8B Cameras by 4B Unique Camera Owners: 89% of camera owners use a cameraphone to take pictures; This year first time 1 Trillion pictures are taken, Communities Dominate Brands Blog* (Aug. 11, 2014), <http://communitiesdominateblogs.com/brands/2014/08/camera-stats-world-has-48b-cameras-by-4b-unique-camera-owners-88-of-them-use-cameraphone-to-take-pic.html>.

¹⁰ Sarah Mitroff, *The best scanning apps for Android and iPhone*, CNET (Sept. 8, 2015), <https://www.cnet.com/how-to/best-scanning-apps-for-android-and-iphone/>.

scanning services, he or she can take a digital photograph or scan of that excerpt and submit it as the deposit, so long as the work is legible.

To facilitate the use of these various options, the final rule clarifies that applicants may upload an electronic copy of their works in any of the formats listed on the Office's Web site. The list includes PDF as well as common formats used in digital photography such as .jpg and .tiff. See eCO Acceptable File Types, U.S. Copyright Office, <https://www.copyright.gov/eco/help-file-types.html>.

The Office recognizes that there may be rare cases where an author does not have access to any of these resources. The Office also recognizes AG's concerns that some authors may not be comfortable using this type of technology even if it is readily available. The final rule addresses these concerns by clarifying, as mentioned in the NPRM, that applicants may request special relief under § 202.20(d) if they are unable to comply with the deposit requirements for this group option.

The Office, however, is unable to eliminate the deposit requirement entirely, as NWU recommends. NWU Comments at 8. NWU notes that electronic works published in the United States and available only online have been exempted "from the general deposit requirement." *Id.* at 13. NWU contends that the Register of Copyrights has similar authority to exempt online works from the deposit requirement for registration. *Id.* NWU appears to confuse mandatory deposit under section 407 with the deposit requirement for registration under section 408. The Register has the statutory authority under section 407(c) to exempt certain categories of works from mandatory deposit, and recently created a broad exemption for online works. The Register also has the authority under section 408(c)(1) to specify the nature of the copies or phonorecords to be submitted for registration. But the Register does not have the authority to waive the registration deposit requirement altogether. NWU also contends that the Office's application forms have not been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act, citing 44 U.S.C. 3507. *Id.* at 7. These requirements do not apply to the Office; the Office is a component of the Library of Congress, which is not an agency "in the executive branch of the Government" under that statute. 44 U.S.C. 3502(1); see *Ethnic Employees of the Library of Congress v. Boorstin*, 751 F.2d 1405, 1416 n.15 (D.C. Cir. 1985) (noting that the Library of Congress is

not subject to the Administrative Procedure Act or the Freedom of Information Act).¹¹

C. Definition of "Periodical"

The NPRM proposed a definition of "periodical" consistent with the one that has appeared in in the *Compendium* since December 22, 2014. It states that a periodical is a collective work that is issued or intended to be issued on an established schedule in successive issues that are intended to be continued indefinitely. It also recognizes that each issue of a periodical usually bears the same title, as well as numerical or chronological designations.¹² See *Compendium*, section 1115.1; 37 CFR 202.3(b)(1)(v); 56 FR 7812, 7813 (Feb. 26, 1991). Contributions to an electronically printed ("ePrint") publication may be registered under GRCP if that publication fits within the regulatory definition of a "periodical." The NPRM clarified that a Web site would not be considered a periodical, since they may be updated on a continual basis rather than on an established schedule.

AG objects to this definition, calling the distinction between "ePrint" publications and Web sites "arbitrary." AG Comments at 3. AG is concerned that the distinction "would have the effect of disqualifying a great number of electronically-published works from GRCP eligibility." *Id.* Specifically, AG notes that nearly all news sites on the internet are updated "on a continual basis," and as such, contributions to those would not be eligible for GRCP. *Id.* The Office has considered these concerns, but notes that at this time, GRCP is a group registration option intended for a specific class of copyrightable works—one that is specifically mandated by the Copyright Act. When developing its priorities for future upgrades to the electronic registration system, the Office will take these concerns into account.

Finally, AG states that the Office should not "restrict the definition [of

"periodical"] to works that bear the same 'numerical or chronological designations.'" *Id.* The rule here is not as restrictive as AG suggests. It offers only guidance that "in most cases," periodicals will bear those designations. § 202.4(g)(4) (emphasis added). Where a periodical does not bear those designations, but otherwise bears the features of a periodical, the Office is likely to conclude that it falls within the definition.

In a similar vein, NWU seeks a new group registration method for contributions to Web sites, as well as other categories of works. Specifically, NWU submitted a petition urging the Office to create additional group registration options for the following categories of works: "(a) Multiple works first distributed electronically on multiple dates, regardless of whether they constitute contributions to periodicals or a database and regardless of whether they might be deemed to have been, at the time of registration, published or unpublished, and (b) multiple works that would otherwise be eligible for group registration except that they were not first published as contributions to periodicals." NWU Comments at 4, 11–12. The Office is considering the NWU's requests and will take them into account when developing its priorities for future upgrades to the electronic registration system.

D. Additional Objections

NWU raises an additional objection to the proposed rule. NWU contends that requiring authors to register their works in a timely manner and to deposit a copy of the work with the Office as a condition for filing an infringement action or seeking attorneys' fees or statutory damages constitutes an impermissible formality that is prohibited by the Berne Convention. They also contend that these statutory requirements deny authors an "effective remedy" for infringement, which is required by the WIPO Copyright Treaty. NWU Comments at 4–5. Although the Office does not agree that these requirements violate Berne or the WCT, this rulemaking is not the proper forum in which to address these concerns in detail. The statutory requirements that NWU complains of are part of the Copyright Act and the Office cannot create exceptions to them as part of this rulemaking.

List of Subjects in 37 CFR Parts 201 and 202

Copyright.

¹¹ The Copyright Office is subject to the APA and FOIA only because there is a specific statutory provision in title 17 providing so, although it carves out certain actions from the scope of even those provisions. See 17 U.S.C. 701(e). There is no equivalent provision specifically rendering the Copyright Office subject to the Paperwork Reduction Act.

¹² The proposed rule provided examples of the types of publications that typically qualify as a periodical, such as newspapers, newsletters, magazines, annuals, and other similar works. 81 FR at 86643. To avoid confusion, the Office decided not to include these examples in the final rule, because those examples may not always qualify as "periodicals." For instance, a weekly "newsletter" consisting of a single article written by a single author would not be a "collective work," and thus would not qualify as a periodical.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201 and 202 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. In § 201.3, revise paragraph (c)(2) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(c) * * *

(2) Registration of a claim in a group of contributions to periodicals or a group of database updates

85

* * * * *

■ 3. Amend § 201.7 as follows:

■ a. In the last sentence in paragraph (c)(4) introductory text, add the phrase “examples of” after the phrase “The following are”.

■ b. In paragraph (c)(4)(i), remove the semicolon and add a period in its place.

■ c. In paragraph (c)(4)(ii), remove “1989,” and add in its place “1989” and remove “notice;” and add in its place “notice.”

■ d. In paragraphs (c)(4)(iii) through (viii), remove the semicolon and add a period in its place.

■ e. Remove paragraph (c)(4)(ix) and redesignate paragraphs (c)(4)(x) and (xi) as paragraphs (c)(4)(ix) and (x), respectively.

■ f. In newly redesignated paragraph (c)(4)(ix), remove the term “; and ” and add a period in its place.

■ g. Add new paragraph (c)(4)(xi).

The addition reads as follows:

§ 201.7 Cancellation of completed registrations.

* * * * *

(c) * * *

(4) * * *

(xi) The requirements for registering a group of related works under section 408(c) of title 17 of the United States Code have not been met.

* * * * *

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 4. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

■ 5. Amend § 202.3 as follows:

■ a. Revise paragraph (b)(4)(ii).

■ b. Remove and reserve paragraph (b)(8).

■ c. In paragraph (b)(11)(ii), redesignate footnote 4 as footnote 2.

■ d. In paragraph (c)(2) introductory text, remove the reference to footnote “6” and add the phrase “or § 202.4, as applicable” at the end of the second sentence.

■ e. In paragraph (c)(2)(iv), remove footnote 5.

■ f. Designate the undesignated sentence following paragraph (c)(2)(iv) as paragraph (c)(3).
The revision read as follows:

§ 202.3 Registration of copyright.

* * * * *

(b) * * *

(4) * * *

(ii) In the case of an application for registration made under paragraphs (b)(4) through (10) of this section or under § 202.4, the “year of creation,” “year of completion,” or “year in which creation of this work was completed” means the latest year in which the creation of any copyrightable element was completed.

* * * * *

■ 6. Add § 202.4 to read as follows:

§ 202.4 Group registration.

(a) *General.* This section prescribes conditions for issuing a registration for a group of related works under section 408(c) of title 17 of the United States Code.

(b) *Definitions.* For purposes of this section, the terms *compilation*, *collective work*, *copy*, *derivative work*, and *work made for hire* have the meanings set forth in section 101 of title 17 of the United States Code, and the terms *claimant*, *Class TX*, *Class VA*, and *works of the visual arts* have the meanings set forth in § 202.3(a)(3) and (b)(1)(i) and (iii).

(c) [Reserved]

(d) [Reserved]

(e) [Reserved]

(f) [Reserved]

(g) *Group registration of contributions to periodicals.* Pursuant to the authority granted by 17 U.S.C. 408(c)(2), the Register of Copyrights has determined that a group of contributions to periodicals may be registered in Class TX or Class VA with one application, one filing fee, and the required deposit, if the following conditions are met:

(1) All the contributions in the group must be created by the same individual.

(2) The copyright claimant must be the same person or organization for all the contributions.

(3) The contributions must not be works made for hire.

(4) Each work must be first published as a contribution to a periodical, and all the contributions must be first published within a twelve-month period (e.g., January 1, 2015 through December 31, 2015; February 1, 2015 through January 31, 2016). For purposes of this section, a periodical is a collective work that is issued or intended to be issued on an established schedule in successive issues that are intended to be continued indefinitely. In most cases, each issue will bear the same title, as well as numerical or chronological designations.

(5) If any of the contributions were first published before March 1, 1989, those works must bear a separate copyright notice, the notice must contain the copyright owner's name (or an abbreviation by which the name can be recognized, or a generally known alternative designation for the owner), and the name that appears in each notice must be the same.

(6) The applicant must complete and submit the online application designated for a group of contributions to periodicals. The application must identify each contribution that is included in the group, including the date of publication for each contribution and the periodical in which it was first published. The application may be submitted by any of the parties listed in § 202.3(c)(1). The application should be filed in Class TX if a majority of the contributions predominantly consist of text, and the application should be filed in Class VA if a majority of the contributions predominantly consist of photographs, illustrations, artwork, or other works of the visual arts.

(7) The appropriate filing fee, as required by § 201.3(c) of this chapter, must be included with the application or charged to an active deposit account.

(8) The applicant must submit one copy of each contribution that is included in the group, either by submitting the entire issue of the periodical where the contribution was first published, the entire section of the newspaper where it was first published, or the specific page(s) from the periodical where the contribution was first published. The contributions must

be contained in separate electronic files that comply with § 202.20(b)(2)(iii). The files must be submitted in a PDF, JPG, or other electronic format approved by the Office, and they must be uploaded to the electronic registration system, preferably in a .zip file containing all the files. The file size for each uploaded file must not exceed 500 megabytes; the files may be compressed to comply with this requirement.

(9) In an exceptional case, the Copyright Office may waive the online filing requirement set forth in paragraph (g)(6) of this section or may grant special relief from the deposit requirement under § 202.20(d), subject to such conditions as the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose on the applicant.

(h) [Reserved]

(i) [Reserved]

(j) [Reserved]

(k) *Refusal to register.* The Copyright Office may refuse registration if the applicant fails to satisfy the requirements for registering a group of related works under this section or § 202.3(b)(5) through (7), (9), or (10).

(l) *Cancellation.* If the Copyright Office issues a registration for a group of related works and subsequently determines that the requirements for that group option have not been met, and if the claimant fails to cure the deficiency after being notified by the Office, the registration may be cancelled in accordance with § 201.7 of this chapter.

(m) *The scope of a group registration.* When the Office issues a group registration under paragraph (g) of this section, the registration covers each work in the group and each work is registered as a separate work. For purposes of registration, the group as a whole is not considered a compilation, a collective work, or a derivative work under sections 101, 103(b), or 504(c)(1) of title 17 of the United States Code.

§ 202.20 [Amended]

■ 7. Amend § 202.20 as follows:

■ a. In paragraph (d)(1)(i), remove “section;” and add in its place “section; or” .

■ b. In paragraph (d)(1)(iii), remove “section; or” and add in its place “section or § 202.4; or” .

■ c. In paragraph (d)(1)(iv), remove “§ 202.21.” and add in its place “§ 202.4 or § 202.21.”.

Dated: May 31, 2017.

Karyn Temple Claggett,

Acting Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2017–13548 Filed 6–28–17; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0504; FRL–9964–09–Region 4]

Air Plan Approval; GA and SC: Changes to Ambient Air Standards and Definitions

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Georgia State Implementation Plan (SIP) submitted by the Georgia Department of Natural Resources, Environmental Protection Division (GA EPD), on August 30, 2010, and a portion of the SIP revision submitted on July 25, 2014; and portions of revisions to the South Carolina SIP, submitted by the Department of Health and Environmental Control (SC DHEC) on December 15, 2014, August 12, 2015, and on November 4, 2016. The Georgia SIP revisions incorporate definitions relating to fine particulate matter (PM_{2.5}), and amend state rules to reflect the 2008 national ambient air quality standard (NAAQS) for lead. The South Carolina SIP revisions incorporate the 2010 sulfur dioxide (SO₂) NAAQS, 2010 nitrogen dioxide (NO₂) NAAQS, 2012 PM_{2.5} NAAQS, 2015 ozone NAAQS, removes the revoked 1997 8-hour ozone NAAQS, and remove the standard for gaseous fluorides from the SIP. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective August 28, 2017 without further notice, unless EPA receives adverse comment by July 31, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2016–0504 at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at akers.brad@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS for the criteria air pollutants (CAPs) to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the standards themselves. EPA’s regulatory provisions that govern the NAAQS are found at 40 CFR part 50—*National Primary and Secondary Ambient Air Quality Standards*.

A. Summary of Actions for Georgia SIP Revisions

In this rulemaking, EPA is taking direct final action to approve the portion of Georgia’s July 25, 2014, submission amending Georgia’s regulations to incorporate the 2008 lead NAAQS, which is found at GA EPD Rule 391–3–1–.02(4), “Ambient Air Standards,” at regulation (f)1. EPA is also taking final action on Georgia’s August 30, 2010, submittal incorporating definitions of PM_{2.5} and PM_{2.5} emissions.

Through this rulemaking, the Agency is not acting on the following changes