

(iii) If sent through the U.S. Postal Service, use the following address: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977.

(iv) Federal Express, United Parcel Service and similar corporate courier services may not be used for correspondence and filings for the Copyright Arbitration Royalty Panels.

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#### **PART 252—FILING OF CLAIMS TO CABLE ROYALTY FEES**

■ 7. The authority citation for part 252 continues to read as follows:

**Authority:** 17 U.S.C. 111(d)(4), 801, 803.

■ 8. In § 252.4, paragraph (a) is revised to read as follows:

##### **§ 252.4 Compliance with statutory dates.**

(a) Claims filed with the Copyright Office shall be considered timely filed only if addressed as follows:

(1) If hand delivered by a private party, use the following address: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. This mail must be delivered to the Public Information Office, located at this address, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of July.

(2) If hand delivered by a commercial courier (excluding Federal Express, United Parcel Service and similar corporate courier services), use the following address: Copyright Office General Counsel/CARP, Room 403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. This mail must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of July. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(3) If sent through the U.S. Postal Service, use the following address: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service must have sufficient postage and bear a July U.S. postmark.

(4) Federal Express, United Parcel Service and similar corporate courier services may not be used for the filing of claims.

\* \* \* \* \*

#### **PART 257—FILING OF CLAIMS TO SATELLITE CARRIER ROYALTY FEES**

■ 9. The authority citation for part 257 continues to read as follows:

**Authority:** 17 U.S.C. 119(b)(4).

■ 10. In § 257.4, paragraph (a) is revised to read as follows:

##### **§ 257.4 Compliance with statutory dates.**

(a) Claims filed with the Copyright Office shall be considered timely filed only if addressed as follows:

(1) If hand delivered by a private party, use the following address: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. This mail must be delivered to the Public Information Office, located at this address, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of July.

(2) If hand delivered by a commercial courier (excluding Federal Express, United Parcel Service and similar corporate courier services), use the following address: Copyright Office General Counsel/CARP, Room 403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. This mail must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of July. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(3) If sent through the U.S. Postal Service, use the following address: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service must have sufficient postage and bear a July U.S. postmark.

(4) Federal Express, United Parcel Service and similar corporate courier services may not be used for the filing of claims.

\* \* \* \* \*

#### **PART 259—FILING OF CLAIMS TO DIGITAL AUDIO RECORDING DEVICES AND MEDIA ROYALTY PAYMENTS**

■ 11. The authority citation for part 259 continues to read as follows:

**Authority:** 17 U.S.C. 1007(a)(1).

■ 12. In § 259.5, paragraph (a) is revised to read as follows:

##### **§ 259.5 Compliance with statutory dates.**

(a) Claims filed with the Copyright Office shall be considered timely filed only if addressed as follows:

(1) If hand delivered by a private party, use the following address: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. This mail must be delivered to the Public Information Office, located at this address, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of January or February.

(2) If hand delivered by a commercial courier (excluding Federal Express, United Parcel Service and similar corporate courier services), use the address: Copyright Office General Counsel/CARP, Room 403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. This mail must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of January or February. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(3) If sent through the U.S. Postal Service, use the following address: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service must have sufficient postage and bear a January or February U.S. postmark.

(4) Federal Express, United Parcel Service and similar corporate courier services may not be used for the filing of claims.

\* \* \* \* \*

Dated: June 24, 2004.

**Marybeth Peters,**  
*Register of Copyrights.*

Approved by:

**James H. Billington,**  
*Librarian of Congress.*

[FR Doc. 04-14853 Filed 6-29-04; 8:45 am]

**BILLING CODE 1410-33-P**

#### **LIBRARY OF CONGRESS**

**Copyright Office**

**37 CFR Part 205**

**[Docket No. RM 2004-2A]**

**Legal Processes**

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

**ACTION:** Final rule.

**SUMMARY:** The Copyright Office is publishing a final rule concerning legal processes. These regulations govern procedures for the service of process on the Copyright Office, the Register of Copyrights or an employee of the Copyright Office acting in his or her official capacity and the production of Office documents and testimony of Office employees in legal proceedings. These regulations will serve as a statement of Office policy and provide comprehensive guidelines for the Office and its employees, outside agencies, and other persons regarding the appropriate procedures in these areas.

**DATES:** *Effective Date:* July 30, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Marilyn J. Kretsinger, Associate General Counsel, or Robert Kasunic, Principal Legal Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024-0400. Telephone (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:** On February 23, 2004, the Copyright Office published a notice of proposed rulemaking seeking comment on its proposed revision of part 205 of subchapter A of chapter II, 37 CFR. Generally, part 205 establishes rules governing service of complaints, summonses, subpoenas and other legal process on the Copyright Office and its employees in their official capacities. Under the proposed revision, subpart A sets forth the definitions for the part, the addresses for legal service, and waiver of the rules. Subpart B establishes the requirements for service of legal process on an employee of the Copyright Office concerning information acquired in the course of performing official duties or because of the employee's official relationship with the Office and clarifies the requirements for service on the Register of Copyrights pursuant to 17 U.S.C. 411(a). Subpart C prescribes policies and procedures of the Copyright Office governing testimony by an Office employee in his or her official capacity and the production of Office documents pursuant to a demand, request, subpoena, or order for use in legal proceedings in which the Office is not a party. The goal of these proposed rules is to ensure that service intended for the Office and its employees will be expeditiously handled and that documents relating to litigation actually reach the responsible Copyright Office personnel. The centralized procedures reflected in these rules are necessary for the Office's timely response to service of legal process. For a thorough summary

of the proposed rules, see 69 FR 8120 (Feb. 23, 2004).

In response to the publication of the proposed rules, the Copyright Office received one comment from the Chair of the Plain Language Action and Information Network, a group advocating the use of plain language in Government Communications. The commenter begins by questioning the number of copies of individual comments required and the failure to provide an option for electronic submission. Then the commenter proposed stylistic changes to the proposed rules.

The Copyright Office has considered the points raised by the commenter, but finds that the regulatory text, as originally drafted, is preferable in the present context and is consistent with and modeled on comparable regulations by other agencies. These particular rules address legal processes, and thus, are written largely for lawyers who are considering serving legal documents upon the Copyright Office or its employees. In this context, the use of common Latin phrases or a common legal term more succinctly conveys the necessary information. Similarly, given the complex and varied nature of legal processes, the Copyright Office strove to keep related requirements in unified sections so that readers would be alerted to all of the relevant considerations for a particular type of process, e.g., demands for documents and testimony.

Consequently, the Copyright Office is adopting the previously proposed text, as a final rule, without substantive change, as follows:

**List of Subjects in 37 CFR Part 205**

Copyright, Service of process, Testimony by employees and production of documents in legal proceedings.

**Final Regulations**

■ In consideration of the foregoing, the Copyright Office revises 37 CFR part 205 as follows:

**PART 205—LEGAL PROCESSES**

**Subpart A—General Provisions**

Sec.

205.1 Definitions.

205.2 Address for mail and service; telephone number.

205.3 Waiver of rules.

205.4 Relationship of this part to the Federal Rules of Civil and Criminal Procedure.

205.5 Scope of this part related to Copyright Office duties under title 17 of the U.S. Code.

**Subpart B—Service of Process**

205.11 Scope and purpose.

205.12 Process served on the Register of Copyrights or an employee in his or her official capacity.

205.13 Complaints served on the Register of Copyrights pursuant to 17 U.S.C. 411(a).

**Subpart C—Testimony by Employees and Production of Documents in Legal Proceedings in Which the Office is Not a Party**

205.21 Scope and purpose.

205.22 Production of documents and testimony.

205.23 Scope of testimony.

**Authority:** 17 U.S.C. 702.

**Subpart A—General Provisions**

**§ 205.1 Definitions.**

For the purpose of this part:

*Demand* means an order, subpoena or any other request for documents or testimony for use in a legal proceeding.

*Document* means any record or paper held by the Copyright Office, including, without limitation, official letters, deposits, recordations, registrations, publications, or other material submitted in connection with a claim for registration of a copyrighted work.

*Employee* means any current or former officer or employee of the Copyright Office, as well as any individual subject to the jurisdiction, supervision, or control of the Copyright Office.

*General Counsel*, unless otherwise specified, means the General Counsel of the Copyright Office or his or her designee.

*Legal proceeding* means any pretrial, trial, and post trial stages of existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings. This phrase also includes state court proceedings (including grand jury proceedings) and any other state or local legislative and administrative proceedings.

*Office* means the Copyright Office, including any division, section, or operating unit within the Copyright Office.

*Official business* means the authorized business of the Copyright Office.

*Testimony* means a statement in any form, including a personal appearance before a court or other legal tribunal, an interview, a deposition, an affidavit or declaration under penalty of perjury pursuant to 28 U.S.C. 1746, a telephonic, televised, or videotaped

statement or any response given during discovery or similar proceeding, which response would involve more than the production of documents, including a declaration under 35 U.S.C. 25 or a declaration under penalty of perjury pursuant to 28 U.S.C. 1746.

*United States* means the Federal Government, its departments and agencies, individuals acting on behalf of the Federal Government, and parties to the extent they are represented by the United States.

**§ 205.2 Address for mail and service; telephone number.**

(a) Mail under this part should be addressed to the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024-0400.

(b) Service by hand shall be made upon an authorized person from 8:30 a.m. to 5 p.m., Monday through Friday in the Public Information Office, U.S. Copyright Office, Library of Congress, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC. Persons authorized to accept service of process are the General Counsel of the Copyright Office and his or her designees.

(c) The Office of the General Counsel may be reached by telephone during normal business hours specified in paragraph (b) of this section at 202-707-8380.

**§ 205.3 Waiver of rules.**

In extraordinary situations, when the interest of justice requires, the General Counsel may waive or suspend the rules of this part, *sua sponte* or on petition of an interested party, subject to such requirements as the General Counsel may impose on the parties. However, the inclusion of certain legal processes within the scope of these rules, *e.g.*, state legal proceedings, does not represent a waiver of any claim of immunity, privilege, or other defense by the Office in a legal proceeding, including but not limited to, sovereign immunity, preemption, or lack of relevance. This rule does not create any right or benefit, substantive or procedural, enforceable at law by a party against the Copyright Office, the Library of Congress, or the United States.

**§ 205.4 Relationship of this part to the Federal Rules of Civil and Criminal Procedure.**

Nothing in this part waives any requirement under the Federal Rules of Civil or Criminal Procedure.

**§ 205.5 Scope of this part related to Copyright Office duties under title 17 of the U.S. Code.**

This part relates only to legal proceedings, process, requests and demands relating to the Copyright Office's performance of its duties pursuant to title 17 of the United States Code. Legal proceedings, process, requests and demands relating to other matters (*e.g.*, personal injuries, employment matters, etc.) are the responsibility of the General Counsel of the Library of Congress and are governed by 36 CFR part 703.

**Subpart B—Service of Process**

**§ 205.11 Scope and purpose.**

(a) This subpart provides the procedures governing service of process on the Copyright Office and its employees in their official capacity. These regulations provide the identity of Copyright Office officials who are authorized to accept service of process. The purpose of this subpart is to provide a centralized location for receipt of service of process to the Office. Such centralization will provide timely notification of legal process and expedite Office response. Litigants also must comply with all requirements pertaining to service of process that are established by statute, court rule and rule of procedure including the applicable provisions of the Federal Rules of Civil Procedure governing service upon the United States.

(b) This subpart does not apply to service of process made on an employee personally for matters not related to official business of the Office. Process served upon a Copyright Office employee in his or her individual capacity must be served in compliance with the applicable requirements for service of process established by statute, court rule, or rule of procedure.

**§ 205.12 Process served on the Register of Copyrights or an employee in his or her official capacity.**

(a) Summonses, complaints and all other process directed to the Copyright Office, the Register of Copyrights or any other Copyright Office employee in his or her official capacity should be served on the General Counsel of the Copyright Office or his or her designee as indicated in § 205.2 of this part. To effect proper service, the requirements of Rule 4(i) of the Federal Rules of Civil Procedure must also be satisfied by effecting service on both the United States Attorney for the district in which the action is brought and the Attorney General, Attn: Director of Intellectual Property Staff, Commercial Litigation

Branch, Civil Division, Department of Justice, Washington, DC 20530.

(b) If, notwithstanding paragraph (a) of this section, any employee of the Office is served with a summons or complaint in connection with the conduct of official business, that employee shall immediately notify and deliver the summons or complaint to the Office of the General Counsel of the Copyright Office.

(c) Any employee receiving a summons or complaint shall note on the summons or complaint the date, hour, and place of service and mode of service.

(d) The Office will accept service of process for an employee only when the legal proceeding is brought in connection with the conduct of official business carried out in the employee's official capacity.

(e) When a legal proceeding is brought to hold an employee personally liable in connection with an action taken in the conduct of official business, rather than liable in an official capacity, the employee is to be served in accordance with any applicable statute, court rule, or rule of procedure. Service of process in this case is inadequate when made only on the General Counsel. An employee sued personally for an action taken in the conduct of official business shall immediately notify and deliver a copy of the summons or complaint to the General Counsel of the Copyright Office.

**§ 205.13 Complaints served on the Register of Copyrights pursuant to 17 U.S.C. 411(a).**

When an action has been instituted pursuant to 17 U.S.C. 411(a) for infringement of the copyright of a work for which registration has been refused, notice of the institution of the action and a copy of the complaint must be served on the Register of Copyrights by sending such documents by registered or certified mail to the General Counsel of the Copyright Office, GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024-0400, or delivery by hand addressed to the General Counsel of the Copyright Office and delivered to the Public Information Office, U.S. Copyright Office, Library of Congress, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC. The notice must be in the form of a letter that is clearly identified as a 411(a) notice. Both the letter and the envelope should state: "Section 411(a) Notice to the Register of Copyrights." In compliance with Fed. R. Civ. P. Sec. 4(i), a notice of the institution of the action and a copy of

the complaint must also be served on both the United States Attorney for the district in which the action is brought and the United States Department of Justice, directed to the Attorney General, Attn: Director of Intellectual Property Staff, Civil Division, Department of Justice, Washington, DC 20530.

**Subpart C—Testimony By Employees and Production of Documents in Legal Proceedings in Which the Office Is Not a Party**

**§ 205.21 Scope and purpose.**

(a) This subpart prescribes policies and procedures of the Copyright Office governing testimony, in legal proceedings in which the Office is not a party, by Office employees in their official capacities and the production of Office documents for use in legal proceedings pursuant to a demand, request, subpoena or order.

(b) The purpose of this subpart is:

(1) To conserve the time of Office employees for conducting official business;

(2) To minimize the possibility of involving the Office in the matters of private parties or other issues which are not related to the mission of the Office;

(3) To prevent the public from confusing personal opinions of Office employees with Office policy;

(4) To avoid spending the time and money of the United States for private purposes;

(5) To preserve the integrity of the administrative process, minimize disruption of the decision-making process, and prevent interference with the Office's administrative functions.

(c) An employee of the Office may not voluntarily appear as a witness or voluntarily testify in a legal proceeding relating to his or her official capacity without proper authorization under this subpart.

(d) This subpart does not apply to any legal proceeding in which:

(1) An employee is to testify regarding facts or events that are unrelated to official business; or

(2) A former employee is asked to testify as an expert on a matter in which that employee did not personally participate while at the Office so long as the former employee testifies concerning his or her personal opinion and does not purport to speak for or on behalf of the Copyright Office.

**§ 205.22 Production of documents and testimony.**

(a) Generally, all documents and material submitted to the Copyright Office as part of an application to

register a claim to copyright are available for public inspection and copying. It is possible, therefore, to obtain those materials without use of a legal process. Anyone seeking such documents must contact the Certifications and Documents Section of the Office. 37 CFR 201.2(b)(1). Certified copies of public documents and public records are self-authenticating. FED. R. EVID. 902 and 1005; *see also*, FED. R. CIV. p. 44(a)(1). In certain specified circumstances, information contained in the in-process files may be obtained by complying with the procedures of 37 CFR 201.2(b)(3). Correspondence between a copyright claimant or his or her agent and the Copyright Office in a completed registration, recordation, or refusal to register is also available for public inspection. Section 201.2(d) of this chapter prescribes the method for requesting copies of copyright registration records. An attorney engaged in actual or prospective litigation who submits a court order or a completed Litigation Statement may obtain a copy of the deposit if his or her request is found to comply with the requirements set out in 37 CFR 201.2(d)(2). The fees associated with various document requests, searches, copies, and expedited handling are listed in 37 CFR 201.3. Other publications containing Copyright Office procedures and practices are available to the public without charge from the Copyright Office or its Web site: <http://www.copyright.gov>. The Office website also allows online searching of copyright registration information and information pertaining to documents recorded with the Copyright Office beginning January 1, 1978. Pre-1978 copyright registration information and document recordation information is available to the public in the Copyright Office during regular business hours. If the information sought to be obtained from the Office is not available through these Office services, demands and subpoenas for testimony or documents may be served as follows:

(1) *Demands for testimony or documents.* All demands, requests, subpoenas or orders for production of documents or testimony in a legal proceeding directed to the Copyright Office, the Register of Copyrights or any other Copyright Office employee in his or her official capacity must be in writing and should be served on the General Counsel of the Copyright Office as indicated in § 205.2 of this part and in accordance with the Federal Rules of Civil or Criminal Procedure.

(2) *Affidavits.* Except when the Copyright Office is a party to the legal

proceeding, every demand, request or subpoena shall be accompanied by an affidavit or declaration under penalty of perjury pursuant to 28 U.S.C. 1746. Such affidavit or declaration shall contain a written statement setting forth the title of the legal proceeding; the forum; the requesting party's interest in the legal proceeding; the reasons for the demand, request, or subpoena; a showing that the desired testimony or document is not reasonably available from any published or other written source, (e.g. 37 CFR, Chapter II; Compendium II, Compendium of Copyright Office Practices; other written practices of the Office; circulars; the Copyright Office website) and is not available by other established procedure, e.g. 37 CFR 201.2, 201.3. If testimony is requested in the affidavit or declaration, it shall include the intended use of the testimony, a detailed summary of the testimony desired, and a showing that no document could be provided and used in lieu of the requested testimony. The purpose of these requirements is to permit the Copyright General Counsel to make an informed decision as to whether testimony or production of a document should be authorized. The decision by the General Counsel will be based on consideration of the purposes set forth in § 205.21(b) of this part, on the evaluation of the requesting party's need for the testimony and any other factor warranted by the circumstances. Typically, when the information requested is available through other existing Office procedures or materials, the General Counsel will not authorize production of documents or testimony.

(b) No Copyright Office employee shall give testimony concerning the official business of the Office or produce any document in a legal proceeding other than those made available by the Certifications and Documents Section under existing regulations without the prior authorization of the General Counsel. Without prior approval from the General Counsel, no Office employee shall answer inquiries from a person not employed by the Library of Congress or the Department of Justice regarding testimony or documents in connection with a demand, subpoena or order. All inquiries involving demands, subpoenas, or orders shall be directed to the Copyright General Counsel.

(c) Any Office employee who receives a demand, request, subpoena or order for testimony or the production of documents in a legal proceeding shall immediately notify the Copyright Office General Counsel at the phone number indicated in § 205.2 of this part and

shall immediately forward the demand to the Copyright General Counsel.

(d) The General Counsel may consult or negotiate with an attorney for a party or the party, if not represented by an attorney, to refine or limit a demand, request or subpoena to address interests or concerns of the Office. Failure of the attorney or party to cooperate in good faith under this part may serve as the basis for the General Counsel to deny authorization for the testimony or production of documents sought in the demand.

(e) A determination under this part regarding authorization to respond to a demand is not an assertion or waiver of privilege, lack of relevance, technical deficiency or any other ground for noncompliance. The Copyright Office reserves the right to oppose any demand on any appropriate legal ground independent of any determination under this part, including but not limited to, sovereign immunity, preemption, privilege, lack of relevance, or technical deficiency.

(f) Office procedures when an employee receives a demand or subpoena:

(1) If the General Counsel has not acted by the return date, the employee must appear at the time and place set forth in the subpoena (unless otherwise advised by the General Counsel) and inform the court (or other legal authority) that the demand has been referred for the prompt consideration of the General Counsel and shall request the court (or other legal authority) to stay the demand pending receipt of the requested instructions.

(2) If the General Counsel makes a determination not to authorize testimony or the production of documents, but the subpoena is not withdrawn or modified and Department of Justice representation cannot be arranged, the employee should appear at the time and place set forth in the subpoena unless advised otherwise by the General Counsel. If legal counsel cannot appear on behalf of the employee, the employee should produce a copy of these rules and state that the General Counsel has advised the employee not to provide the requested testimony or to produce the requested document. If a court (or other legal authority) rules that the demand in the subpoena must be complied with, the employee shall respectfully decline to comply with the demand, citing *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

#### **§ 205.23 Scope of testimony.**

(a)(1) If a Copyright Office employee is authorized to give testimony in a legal

proceeding, the testimony, if otherwise proper, shall be limited to facts within the personal knowledge of the Office employee. An Office employee is prohibited from giving expert testimony, or opinion, answering hypothetical or speculative questions, or giving testimony with respect to subject matter which is privileged. If an Office employee is authorized to testify in connection with his or her involvement or assistance in a proceeding or matter before the Office, that employee is further prohibited from giving testimony in response to an inquiry about the bases, reasons, mental processes, analyses, or conclusions of that employee in the performance of his or her official functions.

(2) The General Counsel may authorize an employee to appear and give expert testimony or opinion testimony upon the showing, pursuant to § 205.3 of this part, that exceptional circumstances warrant such testimony and that the anticipated testimony will not be adverse to the interest of the Copyright Office or the United States.

(b) If an Office employee is authorized to testify, the employee will generally be prohibited from providing testimony in response to questions which seek, for example:

(1) To elicit information about the employee's:

(i) Qualifications to examine or otherwise consider a particular copyright application.

(ii) Usual practice or whether the employee followed a procedure set out in any Office manual of practice in a particular case.

(iii) Consultation with another Office employee.

(iv) Familiarity with:

(A) Preexisting works that are similar.

(B) Registered works, works sought to be registered, a copyright application, registration, denial of registration, or request for reconsideration.

(C) Copyright law or other law.

(D) The actions of another Office employee.

(v) Reliance on particular facts or arguments.

(2) To inquire into the manner in and extent to which the employee considered or studied material in performing the function.

(3) To inquire into the bases, reasons, mental processes, analyses, or conclusions of that Office employee in performing the function.

(4) In exceptional circumstances, the General Counsel may waive these limitations pursuant to § 205.3 of this part.

Dated: June 24, 2004.

**Marybeth Peters,**  
*Register of Copyright.*

Approved by:

**James H. Billington,**  
*Librarian of Congress.*

[FR Doc. 04-14852 Filed 6-29-04; 8:45 am]

BILLING CODE 1410-30-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[R07-OAR-2004-MO-0003; FRL-7779-9]

#### Approval and Promulgation of Implementation Plans; State of Missouri; Designation of Areas for Air Quality Planning Purposes, Iron County; Arcadia and Liberty Townships

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is announcing the redesignation of the lead nonattainment area in Iron County, Missouri, to attainment of the National Ambient Air Quality Standard (NAAQS) for lead. We are approving the maintenance plan for this area including a settlement agreement which was submitted with the redesignation request. The effect of the SIP approval is to ensure Federal enforceability of the state air program plan and to maintain consistency between the state-adopted plan and the approved SIP. The effect of the redesignation is to recognize that the area has attained the lead NAAQS and to focus future air quality planning efforts on maintenance of the lead NAAQS in the area.

**DATES:** This direct final rule will be effective August 30, 2004, without further notice, unless EPA receives adverse comment by July 30, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07-OAR-2004-MO-0003, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for