

Original amendment submission date	Date of final publication	Citation/description
September 28, 1998	November 26, 1999	Revegetation Success Guidelines dated April 1999 (partial approval).

3. Section 915.16 is amended by adding paragraphs (a) through (e) to read as follows:

**§ 915.16 Required program amendments.**

(a) Before Iowa allows the use of reference areas for determining success of productivity on prime farmland as proposed at section III, part F and section IV, part A.2 of its revegetation success guidelines, Iowa must submit for OSM approval evidence that the U.S. Natural Resources Conservation Service concurs with these provisions.

(b) By May 25, 2000, Iowa must either remove the guidelines for normal husbandry practices from section III, part H of its April 1999 revegetation success guidelines or submit for OSM approval documentation that demonstrates each practice is a normal husbandry practice within the region for unmined lands having land uses similar to the approved postmining land uses of areas disturbed by mining in Iowa.

(c) By May 25, 2000, Iowa must either remove section IV, part G, which contains the requirements and methods for control area climatic adjustments to the prime farmland average yields provided in the County Soil Map Unit Yield Data tables, from its April 1999 revegetation success guidelines or submit for OSM approval evidence that the U.S. Natural Resources Conservation Service concurs with this provision.

(d) By May 25, 2000, Iowa must amend its revegetation success guidelines at:

(1) Section IV, part E by either adding planting arrangement provisions for recreational, wildlife, and forested lands and obtaining program-wide concurrence for the provisions from the State agencies responsible for the administration of forestry and wildlife programs or adding a provision that requires permit-specific concurrence for minimum planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs.

(2) Section IV, part E by either obtaining program-wide concurrence for its minimum stocking provisions or adding a provision that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs.

(e) By May 25, 2000, Iowa must add a provision to section V, Part A.2 of its revegetation success guidelines that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples.

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**LIBRARY OF CONGRESS**

**Copyright Office**

**37 CFR Part 201**

[Docket No. RM 99-5C]

**Notice and Recordkeeping for Non-subscription Digital Transmissions**

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

**ACTION:** Interim rule amendment.

**SUMMARY:** The Copyright Office is extending the date by which a non-interactive, non-subscription service currently making digital transmissions of sound recordings must file an initial notice of digital transmission with the Copyright Office from October 15, 1999, to December 1, 1999.

**EFFECTIVE DATE:** November 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:**

The Digital Performance Right in Sound Recordings Act of 1995, Public Law 104-39, 109 Stat. 336, created a statutory license that allowed an eligible subscription service to perform publicly a sound recording by means of digital audio transmissions, provided that the service adheres to the terms of the license and complies with the notice and recordkeeping regulations promulgated by the Librarian of Congress. 17 U.S.C. 114(f)(2) (1995). Three years later with the passage of the Digital Millennium Copyright Act of 1998 ("DMCA"), Congress expanded the scope of this license to include nonexempt, non-subscription transmission services and two preexisting satellite digital audio radio services.

Prior to the passage of the DMCA, the Copyright Office published regulations to govern how a subscription service was to provide notice to the copyright owners of the sound recordings and maintain specific records documenting the use of these works. See 63 FR 34289 (June 24, 1998). Under these regulations, each service had to file an initial notice of digital transmission with the Licensing Division of the Copyright Office. 37 CFR 201.35. The deadline for filing this notice was structured to allow a service to file its notice either before it commenced operation, or in the case of a service already making transmissions prior to the publication of the rule, within 45 days of the effective date of the regulation.

These filing requirements, however, did not allow a service newly eligible to make use of the license under the DMCA to make a timely filing of its initial notice of digital transmission. Therefore, the Office proposed an amendment to—201.35(f) which extended the date for filing an initial notice to October 15, 1999, in the case of those services operating under the expanded license. 64 FR 42316 (August 4, 1999). The proposed amendment was unopposed, and the Office adopted the change as a final interim regulation on September 20, 1999. 64 FR 50758 (September 20, 1999).

Subsequently, the National Association of Broadcasters ("NAB") filed a petition with the Copyright Office, seeking an extension of the October 15 deadline for filing the initial notices to December 1, 1999. NAB made this request because it believed that many potentially affected parties were unaware of the need to file an initial notice by the October 15, 1999, date, and consequently, missed the filing deadline. See 64 FR 59140 (November 2, 1999). Since that date, the Copyright Office has received several hundred initial notices from non-subscription services that are currently operating under the section 114 license and expects additional filings to continue. Thus, it appears that many of the potentially affected parties were unaware of the rule change that set a date certain by which these services had to file an initial notice of digital transmission of sound recordings.

In recognition of the apparent breakdown in the process to disseminate the information regarding

the filing requirement to those parties most affected by the interim rule change and the lack of any comments opposing the extension of the filing date, the Office is amending its interim regulation in accordance with NAB's suggestion and adopting the proposed December 1, 1999, date.

A service should be aware that the date-specific filing deadline for non-subscription services is significant only if it has made a digital transmission under the statutory license prior to that filing date. Any preexisting entity, just as any new entity which chooses to make use of the license at a future time, may file its initial notice after these dates, so long as it files its initial notice with the Licensing Division prior to the first transmission of a sound recording.

### Regulatory Flexibility Act

Although the Copyright Office, located in the Library of Congress which is part of the legislative branch, is not an "agency" subject to the Regulatory Flexibility Act, 5 U.S.C. 601-612, the Register of Copyrights considers the effect of a proposed amendment on small businesses. For that reason, the Register is amending yet again 37 CFR 201.35(f) in order to allow small business entities that are eligible for the statutory license to make a timely filing of its initial notice of digital transmission. The Register sought the amendment at the request of the NAB, an organization that represents the interests of numerous small broadcasters who were heretofore unaware of the filing requirement.

### List of Subjects in 37 CFR Part 201

Copyright.

### Final Interim Regulation

For the reasons set forth in the preamble, part 201 of title 37 of the Code of Federal Regulations is amended as follows:

### PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

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

#### § 201.35 [Amended]

2. Section 201.35(f) is amended by removing the date "October 15" and inserting in its place "December 1".

Dated: November 18, 1999.

**Marybeth Peters,**

*Register of Copyrights.*

**James H. Billington,**

*The Librarian of Congress.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9 and 257

[FRL-6481-3]

### OMB Approval Numbers Under the Paperwork Reduction Act Relating to the Criteria for Classification of Solid Waste Disposal Facilities and Practices

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

**ACTION:** Technical amendment.

**SUMMARY:** In compliance with the Paperwork Reduction Act, this notice displays the Office of Management and Budget (OMB) control numbers issued under the Paperwork Reduction Act (PRA) for the Criteria for Classification of Solid Waste Disposal Facilities and Practices—Subpart B. This document also announces the effective dates of certain sections in the Code of Federal Regulations which contained information collections requirements and which were originally published in the **Federal Register** on July 1, 1996.

**EFFECTIVE DATE:** The amendment to 40 CFR 9.1 is effective November 26, 1999. 40 CFR 257.24, 257.25, and 257.27 became effective on September 12, 1996 when the Office of Management and Budget (OMB) approved their information collection requirements.

**FOR FURTHER INFORMATION CONTACT:** Paul Cassidy of the Industrial and Extractive Waste Branch, Office of Solid Waste at (703)-308-7281.

**SUPPLEMENTARY INFORMATION:** EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. The amendment updates the table to list those information collection requirements promulgated under the Criteria for Classification of Solid Waste Disposal Facilities and Practices—Subpart B which appeared in the **Federal Register** on July 1, 1996 (61 FR 34252); OMB approved the information collection requirements on September 12, 1996 (ICR 1745.02). The affected regulations are codified at 40 CFR Part 257—Subpart B. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists CFR citations with reporting, recordkeeping, or other information collection requirements, and the current OMB control numbers. This display of the OMB control numbers and their subsequent

codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320. By this action EPA, is also announcing that these sections, which contain information collection requirements, became effective when approved by OMB on September 12, 1996.

This ICR was previously subject to public notice and comment prior to OMB approval. Due to the technical nature of the table, further notice and comment would be unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(B) and (d)(3) of the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d)(3)) to amend this table without further notice and comment.

### I. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not require prior consultation with State, local, and Tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate or safety risks.

### Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the