

*Copyright Laws and Regulations*

collective work.

- (10) Works first published outside the United States and later published in the United States without change in copyrightable content, if:
    - (i) Registration for the work was made under 17 U.S.C. 408 before the work was published in the United States; or
    - (ii) Registration for the work was made under 17 U.S.C. 408 after the work was published in the United States but before a demand for deposit is made under 17 U.S.C. 407(d).
  - (11) Works published only as embodied in a soundtrack that is an integral part of a motion picture. This category does not exempt the owner of copyright, or of the exclusive right of publication, in the motion picture, from the applicable deposit requirements for the motion picture.
  - (12) Motion pictures that consist of television transmission programs and that have been published, if at all, only by reason of a license or other grant to a nonprofit institution of the right to make a fixation of such programs directly from a transmission to the public, with or without the right to make further uses of such fixations.
- (d) Nature of required deposit
- (1) Subject to the provisions of paragraph (d)(2) of this section, the deposit required to satisfy the provisions of section 407(a) of title 17 shall consist of:
    - (i) In the case of published works other than sound recordings, two complete copies of the best edition; and
    - (ii) In the case of published sound recordings, two complete phonorecords of the best edition.
  - (2) In the case of certain published works not exempt from deposit requirements under paragraph (c) of this section, the following special provisions shall apply:
    - (i) In the case of published three-dimensional cartographic representations of area, such as globes and relief models, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section.
    - (ii) In the case of published motion pictures, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section. Any deposit of a published motion picture must be accompanied by a separate description of its contents, such as a continuity, pressbook, or synopsis. The Library of Congress may, at its sole discretion, enter into an agreement permitting the return of copies of published motion pictures to the depositor under certain conditions and establishing certain rights and obligations of the Library with respect to such copies. In the event of termination of such an agreement by the Library it shall not be subject to reinstatement, nor shall the depositor or any successor in interest of the depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Library it would be in the best interests of the Library to reinstate the agreement or enter into a new agreement.
    - (iii) In the case of any published work deposited in the form of a hologram, the deposit shall be accompanied by:
      - (A) Two sets of precise instructions for displaying the image fixed in the hologram; and
      - (B) two sets of identifying material in compliance with § 202.21 of these regulations and clearly showing the displayed image.

*Copyright Laws and Regulations*

- (iv) In any case where an individual author is the owner of copyright in a published pictorial or graphic work and
    - (A) less than five copies of the work have been published, or
    - (B) the work has been published and sold or offered for sale in a limited edition consisting of no more than three hundred numbered copies,the deposit of one complete copy of the best edition of the work or, alternatively, the deposit of photographs or other identifying material in compliance with § 202.21 of these regulations, will suffice in lieu of the two copies required by paragraph (d)(1) of this section.
  - (v) In the case of a musical composition published in copies only, or in both copies and phonorecords, if the only publication of copies in the United States took place by rental, lease, or lending, the deposit of one complete copy of the best edition will suffice in lieu of the two copies required by paragraph (d)(1) of this section.
  - (vi) In the case of published multimedia kits, that include literary works, audiovisual works, sound recordings, or any combination of such works, the deposit of one complete copy of the best edition will suffice in lieu of the two copies required by paragraph (d)(1) of this section.
  - (vii) In the case of published computer programs and published computerized information works, such as statistical compendia, serials, and reference works that are not copy-protected, the deposit of one complete copy of the best edition as specified in the current Library of Congress Best Edition Statement will suffice in lieu of the two copies required by paragraph (d)(1) of this section. If the works are copy-protected, two copies of the best edition are required.
  - (viii) In the case of published architectural works, the deposit shall consist of the most finished form of presentation drawings in the following descending order of preference:
    - (A) Original format, or best quality form of reproduction, including offset or silk screen printing;
    - (B) Xerographic or photographic copies on good quality paper;
    - (C) Positive photostat or photodirect positive;
    - (D) Blue line copies (diaz or ozalid process). If photographs are submitted, they should be 8 x 10 inches and should clearly show several exterior and interior views. The deposit should disclose the name(s) of the architect(s) and draftsman(s) and the building site.
- (e) Special relief
- (1) In the case of any published work not exempt from deposit under paragraph (c) of this section, the Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress and upon such conditions as the Register may determine after such consultation:
    - (i) Grant an exemption from the deposit requirements of section 407(a) of title 17 on an individual basis for single works or series or groups of works; or
    - (ii) Permit the deposit of one copy or phonorecord, or alternative identifying material, in lieu of the two copies or phonorecords required by paragraph (d)(1) of this section; or
    - (iii) Permit the deposit of incomplete copies or phonorecords, or copies or phonorecords other than those normally comprising the best edition; or
    - (iv) Permit the deposit of identifying material which does not comply with § 202.21 of these regulations.

*Copyright Laws and Regulations*

- (2) Any decision as to whether to grant such special relief, and the conditions under which special relief is to be granted, shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress, and shall be based upon the acquisition policies of the Library of Congress then in force.
  - (3) Requests for special relief under this paragraph shall be made in writing to the Chief, Deposits and Acquisitions Division of the Copyright Office, shall be signed by or on behalf of the owner of copyright or of the exclusive right of publication in the work, and shall set forth specific reasons why the request should be granted.
  - (4) The Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress, terminate any ongoing or continuous grant of special relief. Notice of termination shall be given in writing and shall be sent to the individual person or organization to whom the grant of special relief had been given, at the last address shown in the records of the Copyright Office. A notice of termination may be given at any time, but it shall state a specific date of termination that is at least 30 days later than the date the notice is mailed. Termination shall not affect the validity of any deposit made earlier under the grant of special relief.
- (f) Submission and receipt of copies and phonorecords
- (1) All copies and phonorecords deposited in the Copyright Office will be considered to be deposited only in compliance with section 407 of title 17 unless they are accompanied by an application for registration of a claim to copyright in the work represented by the deposit, and either a registration fee or a deposit account number on the application. Copies or phonorecords deposited without such an accompanying application and either a fee or a deposit account notation will not be connected with or held for receipt of separate applications, and will not satisfy the deposit provisions of section 408 of title 17 or § 202.20 of these regulations.
  - (2) All copies and phonorecords deposited in the Copyright Office under section 407 of title 17, unless accompanied by written instructions to the contrary, will be considered to be deposited by the person or persons named in the copyright notice on the work.
  - (3) Upon request by the depositor made at the time of the deposit, the Copyright Office will issue a certificate of receipt for the deposit of copies or phonorecords of a work under this section. Certificates of receipt will be issued in response to requests made after the date of deposit only if the requesting party is identified in the records of the Copyright Office as having made the deposit. In either case, requests for a certificate of receipt must be in writing and accompanied by a fee of \$4. A certificate of receipt will include identification of the depositor, the work deposited, and the nature and format of the copy or phonorecord deposited, together with the date of receipt.

*[51 FR 6403, Feb. 24, 1986, as amended at 54 FR 42299, Oct. 16, 1989; 56 FR 47403, Sept. 19, 1991; 56 FR 59885, Nov. 26, 1991; 57 FR 45310, Oct. 1, 1992]*

**37 CFR 202.20 Deposit of copies and phonorecords for copyright registration.**

(a) General. This section prescribes rules pertaining to the deposit of copies and phonorecords of published and unpublished works for the purpose of copyright registration under section 408 of title 17 of the United States Code, as amended by Pub. L. 94-553. The provisions of this section are not applicable to the deposit of copies and phonorecords for the Library of Congress under section 407 of title 17, except as expressly adopted in § 202.19 of these regulations.

(b) Definitions. For the purposes of this section:

- (1) The best edition of a work has the meaning set forth in § 202.19(b)(1) of these regulations.
- (2) A complete copy or phonorecord means the following:

*Copyright Laws and Regulations*

- (i) Unpublished works. Subject to the requirements of paragraph (b)(2)(vi) of this section, a "complete" copy or phonorecord of an unpublished work is a copy or phonorecord representing the entire copyrightable content of the work for which registration is sought;
  - (ii) Published works. Subject to the requirements of paragraphs (b)(2) (iii) through (vi) of this section, a "complete" copy or phonorecord of a published work includes all elements comprising the applicable unit of publication of the work, including elements that, if considered separately, would not be copyrightable subject matter. However, even where certain physically separable elements included in the applicable unit of publication are missing from the deposit, a copy or phonorecord will be considered "complete" for purposes of registration where:
    - (A) The copy or phonorecord deposited contains all parts of the work for which copyright registration is sought; and
    - (B) The removal of the missing elements did not physically damage the copy or phonorecord or garble its contents; and
    - (C) The work is exempt from the mandatory deposit requirements under section 407 of title 17 of the United States Code and § 202.19(c) of these regulations, or the copy deposited consists entirely of a container, wrapper, or holder, such as an envelope, sleeve, jacket, slipcase, box, bag, folder, binder, or other receptacle acceptable for deposit under paragraph (c)(2) of this section;
  - (iii) Contributions to collective works. In the case of a published contribution to a collective work, a "complete" copy or phonorecord is the entire collective work including the contribution or, in the case of a newspaper, the entire section including the contribution;
  - (iv) Sound recordings. In the case of published sound recordings, a "complete" phonorecord has the meaning set forth in § 202.19(b)(2) of these regulations;
  - (v) Musical scores. In the case of a musical composition published in copies only, or in both copies and phonorecords:
    - (A) If the only publication of copies took place by the rental, lease, or lending of a full score and parts, a full score is a "complete" copy; and
    - (B) If the only publication of copies took place by the rental, lease, or lending of a conductor's score and parts, a conductor's score is a "complete" copy;
  - (vi) Motion pictures. In the case of a published or unpublished motion picture, a copy is "complete" if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.
- (3) The terms architectural works, copy, collective work, device, fixed, literary work, machine, motion picture, phonorecord, publication, sound recording, transmission program, and useful article, and their variant forms, have the meanings given to them in 17 U.S.C. 101.
- (4) A secure test is a nonmarketed test administered under supervision at specified centers on specific dates, all copies of which are accounted for and either destroyed or returned to restricted locked storage following each administration. For these purposes a test is not marketed if copies are not sold but it is distributed and used in such a manner that ownership and control of copies remain with the test sponsor or publisher.

*Copyright Laws and Regulations*

- (5) Title 17 means title 17 of the United States Code, as amended by Pub. L. 94-553.
  - (6) For the purposes of determining the applicable deposit requirements under this § 202.20 only, the following shall be considered as unpublished motion pictures: motion pictures that consist of television transmission programs and that have been published, if at all, only by reason of a license or other grant to a nonprofit institution of the right to make a fixation of such programs directly from a transmission to the public, with or without the right to make further uses of such fixations.
- (c) Nature of required deposit
- (1) Subject to the provisions of paragraph (c)(2) of this section, the deposit required to accompany an application for registration of claim to copyright under section 408 of title 17 shall consist of:
    - (i) In the case of unpublished works, one complete copy or phonorecord.
    - (ii) In the case of works first published in the United States before January 1, 1978, two complete copies or phonorecords of the work as first published.
    - (iii) In the case of works first published in the United States on or after January 1, 1978, two complete copies or phonorecords of the best edition.
    - (iv) In the case of works first published outside of the United States, one complete copy or phonorecord of the work either as first published or of the best edition. For purposes of this section, any works simultaneously first published within and outside of the United States shall be considered to be first published in the United States.
  - (2) In the case of certain works, the special provisions set forth in this clause shall apply. In any case where this clause specifies that one copy or phonorecord may be submitted, that copy or phonorecord shall represent the best edition, or the work as first published, as set forth in paragraph (c)(1) of this section.
    - (i) General. In the following cases the deposit of one complete copy or phonorecord will suffice in lieu of two copies or phonorecords:
      - (A) Published three-dimensional cartographic representations of area, such as globes and relief models;
      - (B) Published diagrams illustrating scientific or technical works or formulating scientific or technical information in linear or other two-dimensional form, such as an architectural or engineering blueprint, or a mechanical drawing;
      - (C) Published greeting cards, picture postcards, and stationery;
      - (D) Lectures, sermons, speeches, and addresses published individually and not as a collection of the works of one or more authors;
      - (E) Musical compositions published in copies only, or in both copies and phonorecords, if the only publication of copies took place by rental, lease, or lending;
      - (F) Published multimedia kits or any part thereof;
      - (G) Works exempted from the requirement of depositing identifying material under paragraph (c)(2)(xi)(B)(5) of this section;
      - (H) Literary, dramatic, and musical works published only as embodied in phonorecords, although this category does not exempt the owner of copyright in a sound recording;
      - (I) Choreographic works, pantomimes, literary, dramatic, and musical works published only as embodied in motion pictures;
      - (J) Published works in the form of two-dimensional games, decals, fabric patches or emblems, calendars, instructions for needle work, needle work and craft kits; and

*Copyright Laws and Regulations*

- (K) Works reproduced on three-dimensional containers such as boxes, cases, and cartons.
- (ii) Motion pictures. In the case of published or unpublished motion pictures, the deposit of one complete copy will suffice. The deposit of a copy or copies for any published or unpublished motion picture must be accompanied by a separate description of its contents, such as a continuity, pressbook, or synopsis. In any case where the deposit copy or copies required for registration of a motion picture cannot be viewed for examining purposes on equipment in the Examining Division of the Copyright Office, the description accompanying the deposit must comply with § 202.21(h) of these regulations. The Library of Congress may, at its sole discretion, enter into an agreement permitting the return of copies of published motion pictures to the depositor under certain conditions and establishing certain rights and obligations of the Library of Congress with respect to such copies. In the event of termination of such an agreement by the Library, it shall not be subject to reinstatement, nor shall the depositor or any successor in interest of the depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Library it would be in the best interests of the Library to reinstate the agreement or enter into a new agreement. In the case of unpublished motion pictures (including television transmission programs that have been fixed and transmitted to the public, but have not been published), the deposit of identifying material in compliance with § 202.21 of these regulations may be made and will suffice in lieu of an actual copy. In the case of colorized versions of motion pictures made from pre-existing black and white motion pictures, in addition to the deposit of one complete copy of the colorized motion picture and the separate description of its contents as specified above, the deposit shall consist of one complete print of the black and white version of the motion picture from which the colorized version was prepared. If special relief from this requirement is requested and granted, the claimant shall make a good faith effort to deposit the best available, near-archival quality black and white print, as a condition of any grant of special relief.
- (iii) Holograms. In the case of any work deposited in the form of a three-dimensional hologram, the copy or copies shall be accompanied by:
- (A) Precise instructions for displaying the image fixed in the hologram; and
- (B) Photographs or other identifying material complying with § 202.21 of these regulations and clearly showing the displayed image.
- The number of sets of instructions and identifying material shall be the same as the number of copies required. In the case of a work in the form of a two-dimensional hologram, the image of which is visible without the use of a machine or device, one actual copy of the work shall be deposited.
- (iv) Certain pictorial and graphic works. In the case of any unpublished pictorial or graphic work, deposit of identifying material in compliance with § 202.21 of these regulations may be made and will suffice in lieu of deposit of an actual copy. In the case of a published pictorial or graphic work, deposit of one complete copy, or of identifying material in compliance with § 202.21 of these regulations, may be made and will suffice in lieu of deposit of two actual copies where an individual author is the owner of copyright, and either:
- (A) Less than five copies of the work have been published; or
- (B) The work has been published and sold or offered for sale in a limited edition consisting of no more than 300 numbered copies.
- (v) Commercial prints and labels. In the case of prints, labels, and other

*Copyright Laws and Regulations*

advertising matter, including catalogs, published in connection with the rental, lease, lending, licensing, or sale of articles of merchandise, works of authorship, or services, the deposit of one complete copy will suffice in lieu of two copies. Where the print or label is published in a larger work, such as a newspaper or other periodical, one copy of the entire page or pages upon which it appears may be submitted in lieu of the entire larger work. In the case of prints or labels physically inseparable from a three-dimensional object, identifying material complying with § 202.21 of these regulations must be submitted rather than an actual copy or copies except under the conditions of paragraph (c)(2)(xi)(B)(4) of this section.

- (vi) Tests. In the case of tests, and answer material for tests, published separately from other literary works, the deposit of one complete copy will suffice in lieu of two copies. In the case of any secure test the Copyright Office will return the deposit to the applicant promptly after examination: Provided, That sufficient portions, description, or the like are retained so as to constitute a sufficient archival record of the deposit.
- (vii) Computer programs and databases embodied in machine-readable copies other than CD-ROM format. In cases where a computer program, database, compilation, statistical compendium, or the like, if unpublished is fixed, or if published is published only in the form of machine-readable copies (such as magnetic tape or disks, punched cards, semiconductor chip products, or the like) other than a CD-ROM format, from which the work cannot ordinarily be perceived except with the aid of a machine or device, the deposit shall consist of:
  - (A) For published or unpublished computer programs, one copy of identifying portions of the program, reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform. For these purposes "identifying portions" shall mean one of the following:
    - (1) The first and last 25 pages or equivalent units of the source code if reproduced on paper, or at least the first and last 25 pages or equivalent units of the source code if reproduced in microform, together with the page or equivalent unit containing the copyright notice, if any. If the program is 50 pages or less, the required deposit will be the entire source code. In the case of revised versions of computer programs, if the revisions occur throughout the entire program, the deposit of the page containing the copyright notice and the first and last 25 pages of source code will suffice; if the revisions do not occur in the first and last 25 pages, the deposit should consist of the page containing the copyright notice and any 50 pages of source code representative of the revised material; or
    - (2) Where the program contains trade secret material, the page or equivalent unit containing the copyright notice, if any, plus one of the following: the first and last 25 pages or equivalent units of source code with portions of the source code containing trade secrets blocked-out, provided that the blocked-out portions are proportionately less than the material remaining, and the deposit reveals an appreciable amount of original computer code; or the first and last 10 pages or equivalent units of source code alone with no blocked-out portions; or the first and last 25 pages of object code, together with any 10 or more consecutive pages of source code with no blocked-out portions; or for programs consisting of or less than 25 pages or equivalent units, source code with the trade secret portions blocked-out, provided that the blocked-out portions are proportionately less than the material remaining, and the

*Copyright Laws and Regulations*

remaining portion reveals an appreciable amount of original computer code. If the copyright claim is in a revision not contained in the first and last 25 pages, the deposit shall consist of either 20 pages of source code representative of the revised material with no blocked-out portions, or any 50 pages of source code representative of the revised material with portions of the source code containing trade secrets blocked-out, provided that the blocked-out portions are proportionately less than the material remaining and the deposit reveals an appreciable amount of original computer code. Whatever method is used to block out trade secret material, at least an appreciable amount of original computer code must remain visible.

- (B) Where registration of a program containing trade secrets is made on the basis of an object code deposit the Copyright Office will make registration under its rule of doubt and warn that no determination has been made concerning the existence of copyrightable authorship.
- (C) Where the application to claim copyright in a computer program includes a specific claim in related computer screen displays, the deposit, in addition to the identifying portions specified in paragraph (c)(2)(vii)(A) of this section, shall consist of:
  - (1) Visual reproductions of the copyrightable expression in the form of printouts, photographs, or drawings no smaller than 3x3 inches and no larger than 9x12 inches; or
  - (2) If the authorship in the work is predominantly audiovisual, a one-half inch VHS format videotape reproducing the copyrightable expression, except that printouts, photographs, or drawings no smaller than 3x3 inches and no larger than 9x12 inches must be deposited in lieu of videotape where the computer screen material simply constitutes a demonstration of the functioning of the computer program.
- (D) For published and unpublished automated databases, compilations, statistical compendia, and the like, so fixed or published, one copy of identifying portions of the work, reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform. For these purposes:
  - (1) Identifying portions shall generally mean either the first and last 25 or equivalent units of the work if reproduced on paper or in microform.
  - (2) Datafile and file shall mean a group of data records pertaining to a common subject matter regardless of their size or the number of data items in them.
  - (3) In the case of individual registration of a revised version of the works identified in this paragraph (c)(2)(vii)(D), the identifying portions deposited shall contain 50 representative pages or data records which have been added or modified.
  - (4) If the work is an automated database comprising multiple separate or distinct data files, "identifying portions" shall instead consist of 50 complete data records from each data file or the entire data file, whichever is less, and the descriptive statement required by paragraph (c)(2)(vii)(D)(5).
  - (5) In the case of group registration for revised or updated versions of a database, the claimant shall deposit identifying portions that contain 50 representative pages or equivalent units, or representative data records which have been marked to disclose (or do in fact disclose solely) the new material added