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on one representative publication date if published, or on one representative creation date, if unpublished, and shall also deposit a brief typed or printed descriptive statement containing the notice of copyright information required under "(6)" or "(7)" immediately below, if the work bears a notice, and;

- (i) The title of the database;
  - (ii) A subtitle, date of creation or publication, or other information, to distinguish any separate or distinct data files for cataloging purposes;
  - (iii) The name and address of the copyright claimant;
  - (iv) For each separate file, its name and content, including its subject, the origin(s) of the data, and the approximate number of data records it contains; and
  - (v) In the case of revised or updated versions of an automated database, information as to the nature and frequency of changes in the database and some identification of the location within the database or the separate data files of the revisions.
- (6) For a copyright notice embodied in machine-readable form, the statement shall describe exactly the visually perceptible content of the notice which appears in or with the database, and the manner and frequency with which it is displayed (e.g., at user's terminal only at sign-on, or continuously on terminal display, or on printouts, etc.).
- (7) If a visually perceptible copyright notice is placed on any copies of the work (or on magnetic tape reels or containers therefor), a sample of such notice must also accompany the statement.
- (viii) Machine-readable copies of works other than computer programs, databases, and works fixed in a CD-ROM format. Where a literary, musical, pictorial, graphic, or audiovisual work, or a sound recording, except for works fixed in a CD-ROM format and literary works which are computer programs, databases, compilations, statistical compendia or the like, if unpublished has been fixed or, if published, has been published only in machine-readable form, the deposit must consist of identifying material. The type of identifying material submitted should generally be appropriate to the type of work embodied in machine-readable form, but in all cases should be that which best represents the copyrightable content of the work. In all cases the identifying material must include the title of the work. A synopsis may also be requested in addition to the other deposit materials as appropriate in the discretion of the Copyright Office. In the case of any published work subject to this section, the identifying material must include a representation of the copyright notice, if one exists. Identifying material requirements for certain types of works are specified below. In the case of the types of works listed below, the requirements specified shall apply except that, in any case where the specific requirements are not appropriate for a given work the form of the identifying material required will be determined by the Copyright Office in consultation with the applicant, but the Copyright Office will make the final determination of the acceptability of the identifying material.
- (A) For pictorial or graphic works, the deposit shall consist of identifying material in compliance with § 202.21 of these regulations;
  - (B) For audiovisual works, the deposit shall consist of either a videotape of the work depicting representative portions of the copyrightable

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- content, or a series of photographs or drawings, depicting representative portions of the work, plus in all cases a separate synopsis of the work;
- (C) For musical compositions, the deposit shall consist of a transcription of the entire work such as a score, or a reproduction of the entire work on an audiocassette or other phonorecord;
  - (D) For sound recordings, the deposit shall consist of a reproduction of the entire work on an audiocassette or other phonorecord;
  - (E) For literary works, the deposit shall consist of a transcription of representative portions of the work including the first and last 25 pages or equivalent units, and five or more pages indicative of the remainder.
- (ix) Copies containing both visually-perceptible and machine-readable material other than a CD-ROM format. Where a published literary work is embodied in copies containing both visually-perceptible and machine-readable material, except in the case of a CD-ROM format, the deposit shall consist of the visually-perceptible material and identifying portions of the machine-readable material.
- (x) Works reproduced in or on sheetlike materials. In the case of any unpublished work that is fixed, or any published work that is published, only in the form of a two-dimensional reproduction on sheetlike materials such as textiles and other fabrics, wallpaper and similar commercial wall coverings, carpeting, floor tile, and similar commercial floor coverings, and wrapping paper and similar packaging material, the deposit shall consist of one copy in the form of an actual swatch or piece of such material sufficient to show all elements of the work in which copyright is claimed and the copyright notice appearing on the work, if any. If the work consists of a repeated pictorial or graphic design, the complete design and at least part of one repetition must be shown. If the sheetlike material in or on which a published work has been reproduced has been embodied in or attached to a three-dimensional object, such as furniture, or any other three-dimensional manufactured article, and the work has been published only in that form, the deposit must consist of identifying material complying with § 202.21 of these regulations instead of a copy. If the sheet-like material in or on which a published work has been reproduced has been embodied in or attached to a two-dimensional object such as wearing apparel, bed linen, or a similar item, and the work has been published only in that form, the deposit must consist of identifying material complying with § 202.21 of these regulations instead of a copy unless the copy can be folded for storage in a form that does not exceed four inches in thickness.
- (xi) Works reproduced in or on three-dimensional objects.
- (A) In the following cases the deposit must consist of identifying material complying with § 201.21 of these regulations instead of a copy or copies:
    - (1) Any three-dimensional sculptural work, including any illustration or formulation of artistic expression or information in three-dimensional form. Examples of such works include statues, carvings, ceramics, moldings, constructions, models, and maquettes; and
    - (2) Any two-dimensional or three-dimensional work that, if unpublished, has been fixed, or, if published, has been published only in or on jewelry, dolls, toys, games, except as provided in paragraph (c)(2)(xi)(B)(3) below, or any three-dimensional useful article.

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- (B) In the following cases the requirements of paragraph (c)(2)(xi)(A) of this section for the deposit of identifying material shall not apply:
- (1) Three-dimensional cartographic representations of area, such as globes and relief models;
  - (2) Works that have been fixed or published in or on a useful article that comprises one of the elements of the unit of publication of an educational or instructional kit which also includes a literary or audiovisual work, a sound recording, or any combination of such works;
  - (3) Published games consisting of multiple parts that are packaged and published in a box or similar container with flat sides and with dimensions of no more than 12x24x6 inches;
  - (4) Works reproduced on three-dimensional containers or holders such as boxes, cases, and cartons, where the container or holder can be readily opened out, unfolded, slit at the corners, or in some other way made adaptable for flat storage, and the copy, when flattened, does not exceed 96 inches in any dimension; or
  - (5) Any three-dimensional sculptural work that, if unpublished, has been fixed, or, if published, has been published only in the form of jewelry cast in base metal which does not exceed four inches in any dimension.
- (xii) Soundtracks. For separate registration of an unpublished work that is fixed, or a published work that is published, only as embodied in a soundtrack that is an integral part of a motion picture, the deposit of identifying material in compliance with § 202.21 of these regulations will suffice in lieu of an actual copy of the motion picture.
- (xiii) Oversize deposits. In any case where the deposit otherwise required by this section exceeds 96 inches in any dimension, identifying material complying with § 202.21 of these regulations must be submitted instead of an actual copy or copies.
- (xiv) Pictorial advertising material. In the case of published pictorial advertising material, except for advertising material published in connection with motion pictures, the deposit of either one copy as published or prepublication material consisting of camera-ready copy is acceptable.
- (xv) Contributions to collective works. In the case of published contributions to collective works, the deposit of either one complete copy of the best edition of the entire collective work, the complete section containing the contribution if published in a newspaper, the entire page containing the contribution, the contribution cut from the paper in which it appeared, or a photocopy of the contribution itself as it was published in the collective work, will suffice in lieu of two complete copies of the entire collective work.
- (xvi) Phonorecords. In any case where the deposit phonorecord or phonorecords submitted for registration of a claim to copyright is inaudible on audio playback devices in the Examining Division of the Copyright Office, the Office will seek an appropriate deposit in accordance with paragraph (d) of this section.
- (xvii) Group registration of serials. For group registration of related serials, as specified in §202.3(b)(6), the deposit must consist of one complete copy of the best edition of each issue included in the group registration. In addition, two complimentary subscriptions to any serial for which group registration is sought must be entered and maintained in the name of the

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Library of Congress, and the copies must be submitted regularly and promptly after publication.

(xviii) Architectural works.

(A) For designs of unconstructed buildings, the deposit must consist of one complete copy of an architectural drawing or blueprint in visually perceptible form showing the overall form of the building and any interior arrangements of spaces and/or design elements in which copyright is claimed. For archival purposes, the Copyright Office prefers that the drawing submissions consist of the following in descending order of preference:

- (1) Original format, or best quality form of reproduction, including offset or silk screen printing;
- (2) Xerographic or photographic copies on good quality paper;
- (3) Positive photostat or photodirect positive;
- (4) Blue line copies (diaz or ozalid process).

The Copyright Office prefers that the deposit disclose the name(s) of the architect(s) and draftsman(s) and the building site, if known.

(B) For designs of constructed buildings, the deposit must consist of one complete copy of an architectural drawing or blueprint in visually perceptible form showing the overall form of the building and any interior arrangement of spaces and/or design elements in which copyright is claimed. In addition, the deposit must also include identifying material in the form of photographs complying with §202.21 of these regulations, which clearly discloses the architectural works being registered. For archival purposes, the Copyright Office prefers that the drawing submissions constitute the most finished form of presentation drawings and consist of the following in descending order of preference:

- (1) Original format, or best quality form of reproduction, including offset or silk screen printing;
- (2) Xerographic or photographic copies on good quality paper;
- (3) Positive photostat or photodirect positive;
- (4) Blue line copies (diaz or ozalid process).

With respect to the accompanying photographs, the Copyright Office prefers 8 x 10 inches, good quality photographs, which clearly show several exterior and interior views. The Copyright Office prefers that the deposit disclose the name(s) of the architect(s) and draftsman(s) and the building site.

(xix) Works fixed in a CD-ROM format.

(A) Where a work is fixed in a CD-ROM format, the deposit must consist of one complete copy of the entire CD-ROM package, including a complete copy of any accompanying operating software and instructional manual, and a printed version of the work embodied in the CD-ROM, if the work is fixed in print as well as a CD-ROM. A complete copy of a published CD-ROM package includes all of the elements comprising the applicable unit of publication, including elements that if considered separately would not be copyrightable subject matter or could be the subject of a separate registration.

(B) In any case where the work fixed in a CD-ROM package cannot be viewed on equipment available in the Examining Division of the Copyright Office, the Office will seek an appropriate deposit in accordance with paragraph (d) of this section, in addition to the deposit of the CD-ROM package.

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## (d) Special relief

- (1) In any case 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) Permit the deposit of one copy or phonorecord, or alternative identifying material, in lieu of the one or two copies or phonorecords otherwise required by paragraph (c)(1) of this section;
  - (ii) Permit the deposit of incomplete copies or phonorecords, or copies or phonorecords other than those normally comprising the best edition; or
  - (iii) Permit the deposit of an actual copy or copies, in lieu of the identifying material otherwise required by this section; or
  - (iv) Permit the deposit of identifying material which does not comply with § 202.21 of these 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 and the archival and examining requirements of the Copyright Office.
- (3) Requests for special relief under this paragraph may be combined with requests for special relief under § 202.19(e) of these regulations. Whether so combined or made solely under this paragraph, such requests shall be made in writing to the Chief, Examining Division of the Copyright Office, shall be signed by or on behalf of the person signing the application for registration, 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 or registration made earlier under the grant of special relief.

(e) Use of copies and phonorecords deposited for the Library of Congress. Copies and phonorecords deposited for the Library of Congress under section 407 of title 17 and § 202.19 of these regulations may be used to satisfy the deposit provisions of this section if they are accompanied by an application for registration of claim to copyright in the work represented by the deposit, and either a registration fee or a deposit account number on the application.

*[51 FR 6405, Feb. 24, 1986, as amended at 53 FR 29890, Aug. 9, 1988; 54 FR 13176, 13181, Mar. 31, 1989; 54 FR 21059, May 16, 1989; 55 FR 50557, Dec. 7, 1990; 56 FR 47403, Sept. 19, 1991; 56 FR 55632, Oct. 29, 1991; 56 FR 60065, Nov. 27, 1991; 56 FR 65191, Dec. 16, 1991; 57 FR 45310, Oct. 1, 1992]*

**37 CFR 202.21 Deposit of identifying material instead of copies.**

(a) General. Subject to the specific provisions of paragraphs (f) and (g) of this section, and to §§202.19(e)(1)(iv) and 202.20(d)(1)(iv), in any case where the deposit of identifying material is permitted or required under § 202.19 or §202.20 of these regulations for published or unpublished works, the material shall consist of photographic prints, transparencies, photostats, drawings, or similar two-dimensional reproductions or renderings of the work, in a form visually perceivable without the aid of a machine or device. In the case of pictorial or graphic works, such material should reproduce the actual colors employed in the work. In all other cases, such material may be in black and white or may consist of a reproduction of the actual colors.

(b) Completeness; number of sets. As many pieces of identifying material as are necessary to

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show the entire copyrightable content in the ordinary case, but in no case less than an adequate representation of such content, of the work for which deposit is being made, or for which registration is being sought shall be submitted. Except in cases falling under the provisions of § 202.19(d)(2)(iii) or § 202.20(c)(2)(iii) with respect to holograms, only one set of such complete identifying material is required.

(c) Size. Photographic transparencies must be at least 35mm in size and, if such transparencies are 3x3 inches or less, must be fixed in cardboard, plastic, or similar mounts to facilitate identification, handling, and storage. The Copyright Office prefers that transparencies larger than 3x3 inches be mounted in a way that facilitates their handling and preservation, and reserves the right to require such mounting in particular cases. All types of identifying material other than photographic transparencies must be not less than 3x3 inches and not more than 9x12 inches, but preferably 8x10 inches. Except in the case of transparencies, the image of the work must be either lifesize or larger, or if less than lifesize must be large enough to show clearly the entire copyrightable content of the work.

(d) Title and dimensions. At least one piece of identifying material must, on its front, back, or mount, indicate the title of the work; and the indication of an exact measurement of one or more dimensions of the work is preferred.

(e) Copyright notice. In the case of works published with notice of copyright, the notice and its position on the work must be clearly shown on at least one piece of identifying material. Where necessary because of the size or position of the notice, a separate drawing or similar reproduction shall be submitted. Such reproduction shall be no smaller than 3x3 inches and no larger than 9x12 inches, and shall show the exact appearance and content of the notice, and its specific position on the work.

(f) For separate registration of an unpublished work that is fixed, or a published work that is published, only as embodied in a soundtrack that is an integral part of a motion picture, identifying material deposited in lieu of an actual copy of the motion picture shall consist of:

- (1) A transcription of the entire work, or a reproduction of the entire work on a phonorecord; and
- (2) Photographs or other reproductions from the motion picture showing the title of the motion picture, the soundtrack credits, and the copyright notice for the soundtrack, if any.

The provisions of paragraphs (b), (c), (d), and (e) of this section do not apply to identifying material deposited under this paragraph (f).

(g)(1) In the case of unpublished motion pictures (including transmission programs that have been fixed and transmitted to the public, but have not been published), identifying material deposited in lieu of an actual copy shall consist of either:

- (i) An audio cassette or other phonorecord reproducing the entire soundtrack or other sound portion of the motion picture, and description of the motion picture; or
  - (ii) A set consisting of one frame enlargement or similar visual reproduction from each 10-minute segment of the motion picture, and a description of the motion picture.
- (2) In either case the "description" may be a continuity, a pressbook, or a synopsis but in all cases it must include:
- (i) The title or continuing title of the work, and the episode title, if any;
  - (ii) The nature and general content of the program;
  - (iii) The date when the work was first fixed and whether or not fixation was simultaneous with first transmission;
  - (iv) The date of first transmission, if any;
  - (v) The running time; and

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- (vi) The credits appearing on the work, if any.
- (3) The provisions of paragraphs (b), (c), (d), and (e) of this section do not apply to identifying material submitted under this paragraph (g).

(h) In the case where the deposit copy or copies of a motion picture cannot be viewed for examining purposes on equipment in the Examining Division of the Copyright Office, the "description" required by §202.20(c)(2)(ii) of these regulations may be a continuity, a press-book, a synopsis, or a final shooting script but in all cases must be sufficient to indicate the copyrightable material in the work and include

- (1) The continuing title of the work and the episode title, if any;
- (2) The nature and general content of the program and of its dialogue or narration, if any;
- (3) The running time; and
- (4) All credits appearing on the work including the copyright notice, if any.

The provisions of paragraphs (b), (c), and (d) of this section do not apply to identifying material submitted under this paragraph (h).

[51 FR 6409, Feb. 24, 1986]

**37 CFR 202.22 Acquisition and deposit of unpublished television transmission programs.**

(a) General. This section prescribes rules pertaining to the acquisition of copies of unpublished television transmission programs by the Library of Congress under section 407(e) of Title 17 of the United States Code, as amended by Pub. L. 94-553. It also prescribes rules pertaining to the use of such copies in the registration of claims to copyright, under section 408(b)(2).

(b) Definitions. For purposes of this section:

- (1) The terms copies, fixed, publication, and transmission program and their variant forms, have the meanings given to them in section 101 of Title 17. The term network station has the meaning given it in section 111(f) of title 17.
- (2) Title 17 means Title of the United States Code, as amended by Pub. L. 94-553.

(c) Off-the-air copying

- (1) Library of Congress employees acting under the general authority of the Librarian of Congress may make a fixation of an unpublished television transmission program directly from a transmission to the public in the United States, in accordance with section 407(e)(1) and (4) of Title 17 of the United States Code. The choice of programs selected for fixation shall be based on the Library of Congress acquisition policies in effect at the time of fixation. Specific notice of an intent to copy a transmission program off-the-air will ordinarily not be given. In general, the Library of Congress will seek to copy off-the-air a substantial portion of the programming transmitted by noncommercial educational broadcast stations as defined in section 397 of Title 47 of the United States Code, and will copy off-the-air selected programming transmitted by commercial broadcast stations, both network and independent.
- (2) Upon written request addressed to the Chief, Motion Picture, Broadcasting and Recorded Sound Division by a broadcast station or other owner of the right of transmission, the Library of Congress will inform the requestor whether a particular transmission program has been copied off-the-air by the Library.
- (3) The Library of Congress will not knowingly copy off-the-air any unfixed or published television transmission program under the copying authority of section 407(e) of Title 17 of the United States Code.
- (4) The Library of Congress is entitled under this paragraph (c) to presume that a

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television program transmitted to the public in the United States by a noncommercial educational broadcast station as defined in section 397 of title 47 of the United States Code has been fixed but not published.

- (5) The presumption established by paragraph (c)(4) of this section may be overcome by written declaration and submission of appropriate documentary evidence to the Chief, Motion Picture, Broadcasting and Recorded Sound Division, either before or after off-the-air copying of the particular transmission program by the Library of Congress. Such written submission shall contain:
  - (i) The identification, by title and time of broadcast, of the transmission program in question;
  - (ii) A brief statement declaring either that the program was not fixed or that it was published at the time of transmission;
  - (iii) If it is declared that the program was published at the time of transmission, a brief statement of the facts of publication, including the date and place thereof, the method of publication, the name of the owner of the right of first publication, and whether the work was published in the United States with notice of copyright; and
  - (iv) The actual handwritten signature of an officer or other duly authorized agent of the organization which transmitted the program in question.
- (6) A declaration that the program was unfixed at the time of transmission shall be accepted by the Library of Congress, unless the Library can cite evidence to the contrary, and the off-the-air copy will either be
  - (i) Erased; or
  - (ii) Retained, if requested by the owner of copyright or of any exclusive right, to satisfy the deposit provision of section 408 of Title 17 of the United States Code.
- (7) If it is declared that the program was published at the time of transmission, the Library of Congress is entitled under this section to retain the copy to satisfy the deposit requirement of section 407(a) of title 17 of the United States Code.
- (8) The Library of Congress in making fixations of unpublished transmission programs transmitted by commercial broadcast stations shall not do so without notifying the transmitting organization or its agent that such activity is taking place. In the case of network stations, the notification will be sent to the particular network. In the case of any other commercial broadcasting station, the notification will be sent to the particular broadcast station that has transmitted, or will transmit, the program. Such notice shall, if possible, be given by the Library of Congress prior to the time of broadcast. In every case, the Library of Congress shall transmit such notice no later than fourteen days after such fixation has occurred. Such notice shall contain:
  - (i) The identification, by title and time of broadcast, of the transmission program in question;
  - (ii) A brief statement asserting the Library of Congress' belief that the transmission program has been, or will be by the date of transmission, fixed and is unpublished, together with language converting the notice to a demand for deposit under section 407 (a) and (b) of title 17 of the United States Code, if the transmission program has been published in the United States.
- (9) The notice required by paragraph (c)(8) of this section shall not cover more than one transmission program except that the notice may cover up to thirteen episodes of one title if such episodes are generally scheduled to be broadcast at the same time period on a regular basis, or may cover all the episodes comprising the title if

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they are scheduled to be broadcast within a period of not more than two months.

- (d) Demands for deposit of a television transmission program.
- (1) The Register of Copyrights may make a written demand upon the owner of the right of transmission in the United States to deposit a copy of a specific transmission program for the benefit of the Library of Congress under the authority of section 407(e)(2) of Title 17 of the United States Code.
  - (2) The Register of Copyrights is entitled to presume, unless clear evidence to the contrary is proffered, that the transmitting organization is the owner of the United States transmission right.
  - (3) Notices of demand shall be in writing and shall contain:
    - (i) The identification, by title and time of broadcast, of the work in question;
    - (ii) An explanation of the optional forms of compliance, including transfer of ownership of a copy to the Library, lending a copy to the Library for reproduction, or selling a copy to the Library at a price not to exceed the cost of reproducing and supplying the copy;
    - (iii) A ninety-day deadline by which time either compliance or a request for an extension of a request to adjust the scope of the demand or the method for fulfilling it shall have been received by the Register of Copyrights;
    - (iv) A brief description of the controls which are placed on the copies' use;
    - (v) A statement concerning the Register's perception of the publication status of the program, together with language converting this demand to a demand for a deposit, under 17 U.S.C. 407 (a) and (c), if the recipient takes the position that the work is published; and
    - (vi) A statement that a compliance copy must be made and retained if the notice is received prior to transmission.
  - (4) With respect to paragraph (d)(3)(ii) of this section, the sale of a copy in compliance with a demand of this nature shall be at a price not to exceed the cost to the Library of reproducing and supplying the copy. The notice of demand should therefore inform the recipient of that cost and set that cost, plus reasonable shipping charges, as the maximum price for such a sale.
  - (5) Copies transferred, lent, or sold under paragraph (d) of this section shall be of sound physical condition as described in Appendix A to this section.
  - (6) Special relief. In the case of any demand made under paragraph (d) 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) Extend the time period provided in subparagraph (d)(3)(iii);
    - (ii) Make adjustments in the scope of the demand; or
    - (iii) Make adjustments in the method of fulfilling the demand. Any decision as to whether to allow such extension or adjustments shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress and shall be made as reasonably warranted by the circumstances. Requests for special relief under paragraph (d) of this section shall be made in writing to the Chief, Acquisitions and Processing Division of the Copyright Office, shall be signed by or on behalf of the owner of the right of transmission in the United States and shall set forth the specific reasons why the request shall be granted.
- (e) Disposition and use of copies
- (1) All copies acquired under this section shall be maintained by the Motion Picture,