

Copyright Laws and Regulations

- (iii) Optical media, such as CD-ROM-best edition should adhere to prevailing NISO standards.
 - b. Apple Macintosh:
 - (i) 3 1/2" Diskette(s).
 - (ii) Optical media, such as CD-ROM-best edition should adhere to prevailing NISO standards.
 - B. Computerized Information Works, Including Statistical Compendia, Serials, or Reference Works:
 - 1. With documentation and other accompanying material rather than without.
 - 2. With best edition of accompanying program rather than without.
 - 3. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).
 - 4. Format
 - a. PC-DOS or MS-DOS (or other IBM compatible formats, such as XENIX):
 - (i) Optical media, such as CD-ROM-best edition should adhere to prevailing NISO standards.
 - (ii) 5 1/4" Diskette(s).
 - (iii) 3 1/2" Diskette(s).
 - b. Apple Macintosh:
 - (i) Optical media, such as CD-ROM-best edition should adhere to prevailing NISO standards.
 - (ii) 3 1/2" Diskette(s).
- IX. Works Existing in More Than One Medium
- Editions are listed below in descending order of preference.
- A. Newspapers, dissertations and theses, newspaper-formatted serials:
 - 1. Microform.
 - 2. Printed matter.
 - B. All other materials:
 - 1. Printed matter.
 - 2. Microform.
 - 3. Phonorecord.

[54 FR 42299, Oct. 16, 1989]

Authority: Copyright Act, Pub. L. 94-553; 90 Stat. 2541-2602 (17 U.S.C. 101-710).

Source: 43 FR 774, Jan. 4, 1978, unless otherwise noted.

*Copyright Laws and Regulations***ORGANIZATION****37 CFR 203.1 General.**

This information is furnished for the guidance of the public and in compliance with the requirements of section 552 of Title 5, United States Code, as amended.

37 CFR 203.2 Authority and functions.

(a) The administration of the copyright law was entrusted to the Library of Congress by an act of Congress in 1870, and the Copyright Office has been a separate department of the Library since 1897. The statutory functions of the Copyright Office are contained in and carried out in accordance with the Copyright Act. Pub. L. 94-553 (90 Stat. 2541-2602), 17 U.S.C. 101-710.

37 CFR 203.3 Organization.

(a) In general. The organization of the Copyright Office consists of the Office of the Register of Copyrights and six operating divisions. The Office of the Register of Copyrights includes the Register of Copyrights, the Associate Registers, the Assistant Register, the International Copyright Officer, the Executive Officer, and the Administrative Office. The Register of Copyrights provides overall direction of the work of the Copyright Office. The Register is assisted by the Associate Registers of Copyright and other Officers, who have delegated responsibilities for particular aspects of the activities of the Copyright Office.

(b) The Associate Register of Copyrights serves as a deputy to the Register of Copyrights and has oversight of the operating divisions of the Copyright Office. The operating divisions are:

- (1) The Acquisitions and Processing Division, which receives incoming materials, dispatches outgoing materials, establishes control over fiscal accounts and controls over materials acquired for the collections of the Library of Congress under the deposit requirements of the copyright statute.
- (2) The Examining Division, which examines all applications and material presented to the Copyright Office for registration of original and renewal copyright claims and for recordation of documents, and which determines whether the materials deposited constitute copyrightable subject matter and whether the other legal and formal requirements of Title 17 have been met.
- (3) The Cataloging Division, which prepares the bibliographic description of all copyrighted works registered in the Copyright Office, including the recording of legal facts of copyright pertaining to each work, and creates a data base from which catalog cards and the Catalog of Copyright Entries are produced.
- (4) The Information and Reference Division, which provides a national copyright information service through the public information office, educates staff and the public on the copyright law, issues and distributes information materials, responds to reference requests regarding copyright matters, prepares search reports based upon copyright records, certifies copies of legal documents concerned with copyright, and maintains liaison with the United States Customs Service, the Department of the Treasury, and the United States Postal Service on certain matters.
- (5) The Licensing Division, which implements the sections of the Copyright Act dealing with secondary transmissions of radio and television programs, compulsory licenses for making and distributing phonorecords of nondramatic musical works, public performances through coin-operated phonorecord players, and use of published nondramatic musical, pictorial, graphic, and sculptural works in connection with noncommercial broadcasting.
- (6) The Records Management Division, which develops, services, stores, and preserves the official records and catalogs of the Copyright Office, including applications for registration, historical records, and materials deposited for copyright registration that are not selected by the Library of Congress for addition to its collections.

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(c) The Associate Register of Copyrights for Legal Affairs and Copyright General Counsel is the principal legal officer of the Office. The General Counsel has overall supervisory responsibility for the legal staff and primary responsibility for providing liaison on legal matters between the Office and the Congress, the Department of Justice and other agencies of Government, the courts, the legal community, and a wide range of interests affected by the copyright law.

(d) The Associate Register of Copyrights for Special Programs is primarily responsible for initiating, planning, developing, and implementing projects and activities covering the broad range of legal, international, and scholarly matters with which the Copyright Office deals.

(e) The Office has no field organization.

(f) The Office is located in The James Madison Memorial Building of the Library of Congress, 1st and Independence Avenue, SE., Washington, DC 20559. The Public Information Office is located in Room LM-401. Its hours are 8:30 a.m. to 5 p.m., Monday through Friday except legal holidays. The phone number of the Public Information Office is (202) 287-8700. Informational material regarding the copyright law, the registration process, fees, and related information about the Copyright Office and its functions may be obtained free of charge from the Public Information Office upon request.

(g) All Copyright Office forms may be obtained free of charge from the Public Information Office.

[47 FR 36820, Aug. 24, 1982]

PROCEDURES

37 CFR 203.4 Methods of operation.

(a) In accordance with section 552(a)(2) of the Freedom of Information Act, the Copyright Office makes available for public inspection and copying records of copyright registrations and of final refusals to register claims to copyright; statements of policy and interpretations which have been adopted but are not published in the Federal Register; and administrative staff manuals and instructions to the staff that affect a member of the public.

(b) The Copyright Office also maintains and makes available for public inspection and copying current indexes providing identifying information as to matters issued, adopted, or promulgated after July 4, 1967, that are within the scope of 5 U.S.C. 552(a)(2). The Copyright Office has determined that publication of these indexes is unnecessary and impractical. Copies of the indexes will be provided to any member of the public upon request at the cost of reproduction.

(c) The material and indexes referred to in paragraphs (a) and (b) of this section are available for public inspection and copying at the Public Information Office of the Copyright Office, Room LM-401, The James Madison Memorial Building of the Library of Congress, 1st and Independence Avenue, SE., Washington, DC, between the hours of 8:30 a.m. and 5 p.m., Monday through Friday except legal holidays.

(d) The Supervisory Copyright Information Specialist is responsible for responding to all initial requests submitted under the Freedom of Information Act. Individuals desiring to obtain access to Copyright Office information under the Act should make a written request to that effect either by mail to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559, or in person between the hours of 8:30 a.m. and 5 p.m. on any working day except legal holidays at Room LM-401, The James Madison Memorial Building, 1st and Independence Avenue, SE., Washington, DC

If a request is made by mail, both the request and the envelope carrying it should be plainly marked Freedom of Information Act Request. Failure to so mark a mailed request may delay the Office response.

(e) Records must be reasonably described. A request reasonably describes records if it enables the Office to identify the records requested by any process that is not unreasonably burdensome or disruptive of Office operations. The Supervisory Copyright Information Specialist will, upon request, aid members of the public to formulate their requests in such a manner as to enable the Office to

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respond effectively and reduce search costs for the requester.

(f) The Office will respond to all properly marked mailed requests and all personally delivered requests within 10 working days of receipt by the Supervisory Copyright Information Specialist. The Office response will notify the requester whether or not the request will be granted. If the request is denied, the written notification will include the basis for the denial and also include the names of all individuals who participated in the determination and a description of procedures available to appeal the determination.

(g) In the event a request is denied and that denial is appealed, the Supervisory Copyright Information Specialist will refer the appeal to the General Counsel. Appeals shall be set forth in writing and addressed to the Supervisory Copyright Information Specialist at the address listed in paragraph (d) of this section. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be set forth in writing and signed by the General Counsel or his or her delegate within 20 working days. If, on appeal, the denial is in whole or in part upheld, the written determination will include the basis for the appeal denial and will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

(h) In unusual circumstances, the General Counsel may extend the time limits prescribed in paragraphs (f) and (g) of this section for not more than 10 working days. The extension period may be split between the initial request and the appeal but the total period of extension shall not exceed 10 working days. Extensions will be by written notice to the person making the request. The Copyright Office will advise the requester of the reasons for the extension and the date the determination is expected. As used in this paragraph "unusual circumstances" means:

- (1) The need to search for and collect the requested records from establishments that are physically separate from the office processing the request;
- (2) The need to search for, collect, and examine a voluminous amount of separate and distinct records which are demanded in a single request; or
- (3) The need for consultation, which shall be conducted with all practical speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Copyright Office which have a substantial subject matter interest therein.

[43 FR 774, Jan. 4, 1978, as amended at 47 FR 36820, Aug. 24, 1982]

AVAILABILITY OF INFORMATION

37 CFR 203.5 Inspection and copying.

(a) When a request for information has been approved, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Supervisory Copyright Information Specialist at the address or telephone number listed in § 203.4(d). Such material may be copied manually without charge, and reasonable facilities are available in the Public Information Office for that purpose. Also, copies of individual pages of such materials will be made available at the price per page specified in paragraphs (a) and (b) of § 203.6.

CHARGES FOR SEARCH FOR REPRODUCTION

37 CFR 203.6 Schedule of fees and methods of payment for services rendered.

(a) General. The fee schedule of this section does not apply with respect to the charging of fees for those records for which the Copyright Act of 1976, Title 17 of the United States Code (Pub. L. 94-553) requires a fee to be charged. The fees required to be charged are contained in section 708 of Title 17 U.S.C., or have been established by the Register of Copyrights or Library of Congress pursuant to the requirements of that section. If the Copyright Office receives a request for copies or other services involving the public records or indexes of the Office or for copies of deposited articles for which a fee is required to be charged, the Office will notify the requester of the procedure established to obtain the copies or services and the amount of the chargeable fees. Fees pursuant to

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Title 5 U.S.C., section 552 for all other services not involving the public records of the Copyright Office will be assessed according to the schedule in paragraph (b) of this section. All fees so assessed shall be charged to the requester, except where the charge is limited under paragraph (c) of this section or where a waiver or reduction of fees is granted under paragraph (d) of this section. Requests by record subjects asking for copies of records about themselves shall be processed under the Privacy Act fee schedule found in 37 CFR 204.6.

(b) FOIA requests. In responding to requests under this part the following fees shall be assessed, unless a waiver or reduction in fees has been granted pursuant to paragraph (d) of this section:

- (1) For copies of certificates of copyright registration, \$8.
- (2) For copies of all other Copyright Office records not otherwise provided for in this section a minimum fee of \$7 for up to 15 pages and \$.45 per page over 15.
- (3) For each hour or fraction of an hour spent in searching for a requested record, \$20, except that no search fee shall be assessed with respect to requests by educational institutions, non-commercial scientific institutions, and representatives of the news media. Search fees shall be assessed with respect to all other requests, subject to the limitations of paragraph (c) of this section. Fees may be assessed for time spent searching even if the search fails to locate any responsive records or where the records located are subsequently determined to be entirely exempt from disclosure.
- (4) For the issuance of any certification, \$20 for each hour or fraction of an hour consumed in respect thereto.
- (5) Other costs incurred by the Copyright Office in fulfilling a request will be chargeable at the actual cost of the Office.
- (6) For computer searches of records, which may be undertaken through the use of existing programming, the actual direct costs of conducting the search including the cost of operating a central processing unit for that portion of operating time that is directly attributable to searching for records responsive to a request, as well as the direct costs of operator/programmer salary apportionable to search (at no more than \$10.00 per hour or fraction thereof so spent).
- (7) No review fees will be charged for time spent in resolving legal or policy issues affecting access to Office records. No charge will be made for the time involved in examining records to determine whether some or all such records may be withheld.

(c) Fee limitations. The following limitations on fees shall apply:

- (1) Except for requesters seeking records for commercial use the following will be provided without charge:
 - (i) The first 100 pages of duplication (or its cost equivalent), and
 - (ii) The first two hours of search (or its cost equivalent).
- (2) No fees will be charged for ordinary packaging and mailing costs.

(d) Waiver or reduction of fees

- (1) Records responsive to a request under 5 U.S.C. 552 shall be furnished without charge or at a charge reduced below that established under paragraph (b) of this section where the Office determines, based upon information provided by a requester in support of a fee waiver request or otherwise made known to the Office, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees shall be considered on a case-by-case basis.
- (2) In order to determine whether the first fee waiver requirement is met-i.e., that disclosure of the requested information is in the public interest because it is likely

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to contribute significantly to public understanding of the operations or activities of the government-the Office shall consider the following four factors in sequence:

- (i) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government."
 - (ii) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities.
 - (iii) The contribution to an understanding of the subject by the public likely to result from disclosures: Whether disclosure of the requested information will contribute to "public understanding."
 - (iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.
- (3) In order to determine whether the second fee waiver requirement is met-i.e., that disclosure of the requested information is not primarily in the commercial interest of the requester-the Office shall consider the following two factors in sequence:
- (i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure.
 - (ii) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."
- (4) Where only a portion of the requested records satisfies both of the requirements for a waiver or reduction of fees under this paragraph, a waiver or reduction shall be granted only as to that portion.

(e) Notice of anticipated fees in excess of \$25.00. Where the Office determines or estimates that the fees to be assessed under this section may amount to more than \$25.00, the Office shall notify the requester as soon as practicable of the actual or estimated amount of the fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. (If only a portion of the fee can be estimated readily, the Office shall advise the requester that the estimated fee may be only a portion of the total fee.) In cases where a requester has been notified that actual or estimated fees may amount to more than \$25.00, the requests will be deemed not to have been received until the requester has agreed to pay the anticipated total fee. A notice to a requester pursuant to this paragraph shall offer him the opportunity to confer with Copyright Office personnel in order to reformulate his request to meet his needs at a lower cost.

(f) Aggregation of requests. Where the Office reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a request into a series of requests for the purpose of evading the assessment of fees, the Office may aggregate any such requests and charge accordingly.

(g) Advance payments

- (1) Where the Office estimates that a total fee to be assessed under this section is likely to exceed \$250.00, it may require the requester to make an advance payment of an amount up to the entire estimated fee before beginning to process the request, except where it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.
- (2) Where a requester has previously failed to pay a records access fee within 30 days of the date of billing, the Office may require the requester to pay the full amount owed, plus any applicable interest (as provided for in paragraph (h) of this section), and to make an advance payment of the full amount of any estimated fee before the Office begins to process a new request or continues to process a pending request

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from that requester.

- (3) For requests other than those described in paragraphs (g)(1) and (g)(2) of this section, the Office shall not require the requester to make an advance payment, i.e., a payment made before work is commenced or continued on a request. Payment owed for work already completed is not an advance payment.

(h) Charging interest. The Office may assess interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent to the requester. Once a fee payment has been received by a component of the Office, even if not processed, the accrual of interest shall be stayed. Interest charges shall be assessed at the rate prescribed in section 3717 of Title 31 U.S.C. and shall accrue from the date of billing.

[53 FR 8456, Mar. 15, 1988, as amended at 56 FR 59885, Nov. 26, 1991]

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PART 204 PRIVACY ACT: POLICIES AND PROCEDURES

Authority: Copyright Act, Pub. L. 94-553; 90 Stat. 2541-2602 (17 U.S.C. 101-710).

Source: 43 FR 776, Jan. 4, 1978, unless otherwise noted.

37 CFR 204.1 Purposes and scope.

The purposes of these regulations are:

- (a) The establishment of procedures by which an individual can determine if the Copyright Office maintains a system of records in which there is a record pertaining to the individual; and
- (b) The establishment of procedures by which an individual may gain access to a record or information maintained on that individual and have such record or information disclosed for the purpose of review, copying, correction, or amendment.

37 CFR 204.2 Definitions.

For purposes of this part:

- (a) The term individual means a citizen of the United States or an alien lawfully admitted for permanent residence;
- (b) The term maintain includes maintain, collect, use, or disseminate;
- (c) The term record means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history, and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;
- (d) The term system of records means a group of any records under the control of any agency from which information is retrieved by the name of the individual; and
- (e) The term routine use means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

37 CFR 204.3 General policy.

The Copyright Office serves primarily as an office of public record. Section 705 of Title 17, United States Code, requires the Copyright Office to open for public inspection all records of copyright deposits, registrations, recordations, and other actions taken under Title 17. Therefore, a routine use of all Copyright Office systems of records created under section 705 of Title 17 is disclosure to the public. All Copyright Office systems of records created under section 705 of Title 17 are also available for public copying as required by section 706(a), with the exception of copyright deposits, whose reproduction is governed by section 706(b) and the regulations issued under that section. In addition to the records mandated by section 705 of Title 17, the Copyright Office maintains other systems of records which are necessary for the Office effectively to carry out its mission. These systems of records are routinely consulted and otherwise used by Copyright Office employees in the performance of their duties. The Copyright Office will not sell, rent, or otherwise make publicly available any mailing list prepared by the Office.

[47 FR 36821, Aug. 24, 1982]

37 CFR 204.4 Procedure for notification of the existence of records pertaining to individuals.

- (a) The Copyright Office will publish in the Federal Register, upon the establishment or revision of the system of records, notices of all Copyright Office systems of records subject to the Privacy Act, as provided by 5 U.S.C., section 552a(e)(4). Individuals desiring to know if a Copyright Office system of records contains a record pertaining to them should submit a written request to that effect either by mail to the Supervisory Copyright Information Specialist, Information and Publishing Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559, or in person between the hours of 9 a.m. and 4 p.m. on any working day