

Executive Order 12866: Regulatory Review

The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of the proposed regulation justify its costs. The Department does not consider the rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order, since it is not likely to have an annual effect on the economy of \$100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the proposed regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards and reduce burden.

Paperwork Reduction Act

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

List of Subjects in 22 CFR Part 62

Cultural Exchange Programs.
■ Accordingly, 22 CFR part 62 is amended as follows:

PART 62—EXCHANGE VISITOR PROGRAM

■ 1. The Authority citation for part 62 is revised to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451–2460;

Pub. L. 105–277, Div. G, 112 Stat. 2681–761 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168; Pub. L. 104–208, Div. C, 110 Stat. 3009–546, as amended; Pub. L. 107–56, Sec. 416, 115 Stat. 354; and Pub. L. 107–173, 116 Stat. 543.

■ 2. Section 62.17 is added to read as follows:

§ 62.17 Fees and charges.

(a) *Remittances.* Fees prescribed within the framework of 31 U.S.C. 9701 must be submitted as directed by the Department and must be in the amount prescribed by law or regulation.

(b) *Amounts of fees.* The following fees are prescribed for Fiscal Years 2008–2009 (October 1, 2007—September 30, 2009):

(1) For filing an application for program designation and/or redesignation (Form DS–3036)—\$1,748.

(2) For filing an application for extension beyond the maximum duration, change of category, reinstatement, reinstatement-update SEVIS status, ECFMG-sponsorship authorization, and permission to issue—\$246.

Subpart H [Removed]

■ 3. Remove Subpart H consisting of § 62.90.

Dated: September 20, 2007.

Stanley S. Colvin,

Director, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, Department of State.

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LIBRARY OF CONGRESS**Copyright Office****37 CFR Part 202**

[Docket No. RM 2007–8]

Registration of Claims to Copyright–Renewals

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office is publishing a final rule amending its rules governing applications for registration of claims for renewal term of copyright. The regulations take into account the fact that, since January 1, 2006, all applications for renewal have necessarily related to works which are subject to automatic renewal and, thus, are already in their renewal terms, making impossible any 28th-year

registration of claims to the renewal term.

EFFECTIVE DATE: November 1, 2007.

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SUPPLEMENTARY INFORMATION:**I. Background**

On April 4, 2007, the Copyright Office published a notice of proposed rulemaking seeking comment on amending its rules governing applications for registration of claims to the renewal term of copyright. 72 FR 16306 (April 4, 2007). The proposed regulations take into account the fact that, since January 1, 2006, all applications for renewal have necessarily related to works which are subject to automatic renewal and, thus, are already in their renewal terms, making impossible any 28th-year registration of claims to the renewal term.

The 1976 Copyright Act, 17 U.S.C. 101, *et seq.*, essentially carried over the copyright renewal system of the 1909 Copyright Act for all works subsisting in federal copyright protection before January 1, 1976. Section 304(a) of Title 17 as originally enacted in 1976 provided that renewal registration had to be made during the 28th year of the original term of copyright in order to secure the additional (then 47) years of renewal-term protection. 17 U.S.C. 304(a) (1976).

In 1992, Congress enacted a revision of section 304(a) of Title 17 which made renewal copyright automatic for works first published or registered from January 1, 1964, through December 31, 1977. This amendment allowed the renewal right to vest without registration of: [a] the claim to copyright during the original, 28-year term; or, [b] the claim to renewal copyright during the year immediately prior to the beginning of the renewal term (i.e., during the 28th year); or, [c] the claim to renewal copyright during the renewal term. Pub. L. No. 102–307, 106 Stat. 264, enacted June 26, 1992. In order to encourage renewal registration and provide a public record of renewal rights, however, Congress also amended section 304(a) to provide certain benefits to a party who undertook the renewal registration within the 28th year of the original term of copyright. These benefits for works with timely renewal registrations include:

1. A certificate of registration constitutes *prima facie* evidence as to

the validity of the copyright during its renewal term and of the facts stated in the certificate. 17 U.S.C. 304(a)(4)(B).

2. A derivative work prepared under the authority of a grant of a transfer or license of copyright in a work made before the expiration of the original term of copyright may not continue to be used under the terms of the grant during the renewal term without the authority of the owner of the renewal copyright. 17 U.S.C. 304(a)(4)(A).

3. A renewal copyright vests upon the beginning of the renewal term in the party who was entitled to claim the renewal of copyright at the time the application was made as provided under 17 U.S.C. 304(a)(2)(A)(i) and (B)(i).

Registration of a claim to the renewal term has also been possible since the 1992 amendment at any time during the renewal term, i.e., at any time beyond the 28th year of the original term of copyright. 17 U.S.C. 304(a)(3)(A)(ii). Such renewal registration may be made whether or not an original-term registration was previously made. If no original-term registration was made, the renewal term applicant must provide information, under the provision of 17 U.S.C. 409 (11), regarding the original term of copyright. Such information must demonstrate that the work submitted for renewal registration complies with all requirements of the 1909 Act with respect to the existence, ownership, or duration of the copyright for the original term of the work. The Addendum to Form RE has been used to provide this information to the Copyright Office.

The 1992 amendment further provided that, where no renewal registration has been made in the name of a party identified as entitled to the renewal right in the statute at 304(a)(1)(B) and (C), an application form may be filed at any time during the renewal term by any successor or assignee of such statutorily-enumerated party. Section 304(a)(3).

II. Renewal Registration Procedures

The Copyright Office has developed a revised application form for the registration of renewal claims. The revised Form RE, as well as the revised Form RE/CON (for use when additional information must be supplied) and Form RE/ADDENDUM (to be filed if the work, or the collective work in which it was first published, was not registered during the original term) is available on the Copyright Office website at www.copyright.gov as well as through postal mail upon request. Any requests to the Copyright Office for application forms for registration of claims to the

renewal term will be filled with the newly revised form; the previously used forms will be obsolete, and the new forms must be used to file such renewal claims.

One of the major changes to the form facilitates the filing of applications by successors or assignees of the statutory renewal claimants listed at 17 U.S.C. 304(a)(1)(B) and (C). During the past several years, those successors or assignees of statutory claimants who wished to file an application to the renewal term, 17 U.S.C. 304(a)(3)(A)(ii), had to seek advice from the Copyright Office because of the lack of appropriate application-form instructions for the successor or assignee situation; this has been addressed in the revised application form.

III. Summary of Revisions to Regulation at 37 CFR 202.17

The revision of this regulatory section, 202.17, is extensive to the rule and reorders much of the information which previously appeared within this section. The most important change in information concerned the end of the 28th-year renewal registration possibility.

1. Section 202.17(a) more specifically explains the relevant statutory changes of 1992 regarding renewal rights and sets out the distinction between pre-1964 works and post-1964 works with respect to renewal registration.

2. Section 202.17(b) expands the list of terms defined to include "statutory claimant," "assignee and successor," and "vest" as those terms relate specifically to the provisions of this renewal registration regulation.

3. Section 202.17(c) explains the relevant time periods for both original term registration and renewal term registration and their optional character as they are set out in the 1992 revision of section 304(a) of Title 17.

4. Section 202.17(d) explains the benefits of 28th-year renewal registration under the 1992 revision to section 304(a) of Title 17 and indicates that such benefits have no longer been available since January 1, 2006, because the regime of 28th-year renewal registration has ended.

5. Section 202.17(e) sets out the parties entitled to the renewal right under 17 U.S.C. 304(a)(1)(B) and (C). This section also:

a. clarifies that, in any derivative work which may be the subject of a renewal application, a renewal claim may be filed only in the new matter, revisions, or changes incorporated into that derivative work and which form the basis of the protected authorship for purposes of registration.

b. clarifies that renewal claims for a work may, under certain circumstances, be filed under the posthumous work category and also under an individual claimant category but with the Copyright Office's taking no position as to which of such claims may be adjudicated to be valid.

Two parties claiming renewal copyright who take different positions as to whether a particular work falls under the specific definition of "posthumous" which Congress adopted from Bartok may, thus, file separate and competing claims in such a situation.

c. explains several situations concerning the filing of a renewal registration claim where an executor or a party appointed to fulfill such duties may be the appropriate filer of a renewal claim or where conflicting claims between an administrator of a will and the author's next of kin may be accepted by the Copyright Office.

The Office has also added a phrase, for purposes of § 202.17(e)(2)(iii)(C), qualifying that an executor appointed under a will must still be acting in that capacity at the time of registration when a renewal claim is filed. The phrase "if still acting in that capacity at the time of registration" is added to help claimants make decisions concerning their renewal submissions where an executor of a will may or may not be able to act in the filing of a renewal claim. For the uncertainties and varying situations concerning the presence or absence of an executor or administrator and the possibility of the next of kin's claiming as an appropriate section 304 statutory class, see e.g. *Silverman v. Sunrise Pictures Corp.*, 290 F. 804 (2d Cir.), cert. denied, 262 U.S. 758 (1923); *Gibran v. Alfred A. Knopf, Inc.*, 153 F. Supp. 854 (S.D.N.Y. 1957), aff'd sub. nom., *Gibran v. National Committee of Gibran*, 255 F.2d 121 (2d Cir.), cert. denied, 358 U.S. 828 (1958); *Capano Music v. Myers Music, Inc.*, 605 F. Supp. 692 (S.D.N.Y. 1985).

6. Section 202.17(f) clarifies the situations in which successors and assignees of the section 304(a)(1)(B) and (C) statutory renewal claimants may file applications for renewal registration.

7. Section 202.17(g) indicates the information necessary on a renewal application form for a work for which a previous, original-term registration has been made.

8. Section 202.17(h) indicates the information necessary on a renewal application form and the required accompanying deposit materials in situations for works where no original-term registration has been made. Concerning the Form RE/Addendum to be used in this situation of no original-

term registration, regulatory § 202.17(h)(3)(vii) explains that the applicant must provide within the application an averment that all authorized copies of the work which were publicly distributed in the United States or elsewhere before March 1, 1989, carried a statutorily correct copyright notice.

The Office received no comments from the public in response to its notice of a proposed rulemaking concerning these amendments to the regulations governing renewals. Hence, the Office is issuing a final rule incorporating the proposed revisions.

List of Subjects in 37 CFR Part 202

Claims to copyright, Copyright, Registration requirements, Renewals.

■ In consideration of the foregoing, 37 CFR part 202 is amended as follows:

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408, 702.

■ 2. Section 202.17 is revised to read as follows:

§ 202.17 Renewals

(a) *General.* (1) This section concerns renewal for copyrights originally secured from January 1, 1964, through December 31, 1977, either by publication with the required copyright notice or by registration as an unpublished work. Renewal registration for these works is optional. As provided in Pub. L. No. 102–307, 106 Stat. 264, enacted June 26, 1992, renewal registration made during the last year of the original 28–year term of copyright differs in legal effect from renewal registration made during the 67–year extended renewal term. In the latter instance, the copyright is renewed automatically at the expiration of the original 28–year term. In the former instance, renewal by registration during the last year of the original 28–year term vested the renewal copyright in the statutory claimant living on the date of registration.

(2) Works for which copyright was secured before 1964 are governed by the provisions of 17 U.S.C. 304(a) in effect prior to the 1992 date of enactment of Pub. L. No. 102–307. The copyrights in such works could have been renewed by registration only within the last calendar year of the original 28–year term of copyright protection. If renewal registration was not made during that period of time, copyright protection was

lost when the original term of copyright expired and cannot be regained.

(3) Works restored to copyright by the Uruguay Round Agreements Act are governed in their copyright term of protection by Pub. L. No. 103–465, 108 Stat. 4809, 4976 (December 8, 1994). Under 17 U.S.C. 104A(a)(1)(A) and (B), as amended, any work in which copyright is restored subsists for the remainder of the term of copyright that the work would have been otherwise granted in the United States. Such term includes the remainder of any applicable renewal term.

(4) Automatic restoration of copyright in certain foreign works that were in the public domain in the United States may have occurred under the Uruguay Round Agreements Act and may be protected by copyright or neighboring rights in their “source country,” as defined at 17 U.S.C. 104A(h)(8).

(b) *Definitions.* (1) For purposes of this section, the terms assignee and successor, as they pertain to 17 U.S.C. 304(a)(3)(A)(ii), refer to a party which has acquired the renewal copyright in a work by assignment or by other means of legal succession from the statutory claimant [as that claimant is defined in 17 U.S.C. 304(a)(1)(B) and (C)] in whom the renewal copyright vested but in whose name no renewal registration was previously made.

(2) For purposes of this section, a work has been copyrighted when it has been published with a proper copyright notice or, in the case of an unpublished work, when it has been registered for copyright.

(3) For purposes of this section, the term posthumous work means a work that was unpublished on the date of the death of the author and with respect to which no copyright assignment or other contract for exploitation of the work occurred during the author’s lifetime.

(4) For purposes of this section, the term statutory claimant means:

(i) A party who was entitled to claim copyright for the renewal term at the time renewal registration was made either as a proprietary claimant, 17 U.S.C. 304(a)(2)(A)(i), or as a personal claimant, 17 U.S.C. 304(a)(2)(B)(i), if registration was made during the original term of copyright; or

(ii) If the original copyright term expired, a party who was entitled to claim copyright for the renewal term as of the last day of the original term of copyright as either a proprietary or a personal claimant, 17 U.S.C. 304(a)(2)(A)(ii) and (a)(2)(B)(ii).

(5) For purposes of this section, the term to vest means to give a fixed, non-contingent right of present or future enjoyment of the renewal copyright in a

work. If renewal registration was made during the 28th year of the original term of copyright, the renewal copyright vested in the party or parties entitled to claim such copyright at the time of registration as provided by 17 U.S.C. 304(a)(1)(B) and (C). Although the vested right may have been determined by registration during the 28th year of the original term, the exercise of such right did not commence until the beginning of the renewal term, as provided in 17 U.S.C. 304(a)(2). If renewal registration was not made during the 28th year, the renewal copyright automatically vested upon the beginning of the renewal term in the party or parties entitled to claim such copyright on the last day of the original term as provided by 17 U.S.C. 304(a)(2)(A)(ii) and (B)(ii).

(c) *Time limits: original term and renewal term registration.* (1) Under 17 U.S.C. 304(a), prior to its amendment of June 26, 1992, a registration for the original term of copyright must have been made during the 28 years of that original term, and a renewal registration must also have been made during the 28th year of that term. Pub. L. No. 102–307, 106 Stat. 264 (June 26, 1992) amended section 304(a) for works originally copyrighted from January 1, 1964, through December 31, 1977, and provided for optional original–term registration and optional renewal registration. 17 U.S.C. 304(a)(2), (a)(3) and 409(11). For such works, claims to renewal copyright could have been registered during the last year of the original term but such registration was not required in order to enjoy statutory protection during the renewal term. 17 U.S.C. 304(a)(3)(B).

(2) A renewal registration can be made at any time during the renewal term. 17 U.S.C. 304(a)(3)(A)(ii). If no original–term registration was made, renewal registration remains possible; but the Register may request information, under 17 U.S.C. 409(11), regarding the original term of copyright. Such information must demonstrate that the work complies with all requirements of the 1909 Act with respect to the existence, ownership, or duration of the copyright for the original term of the work. The Form RE/Addendum is used to provide this information.

(3) Renewal registration is currently available for works copyrighted from January 1, 1964, through December 31, 1977. Under the provisions of 17 U.S.C. 304(a)(3)(A)(ii), renewal registration may be made any time during the 67–year renewal term for such works according to the procedure indicated in paragraph (h) of this section. Such renewal registration is optional and is

not a condition of the subsistence of the copyright for the 67-year renewal term. 17 U.S.C. 304(a)(3)(B). In the case of such works for which no registration was made during the original term of copyright, renewal registration may be made by submission of a Form RE/Addendum. The Addendum, an adjunct to the renewal form, concerns the facts of first publication for a work and assures the Copyright Office that the work as it existed in its original term of copyright was in compliance with the 1909 copyright law, 17 U.S.C. 1, et. seq. (1909 Act, in effect through December 31, 1977), whose provisions govern such works.

(d) *Benefits of 28th-year renewal registration.* Prior to January 1, 2006, renewal registration was available during the 28th year of the original term of copyright for works copyrighted from January 1, 1964, through December 31, 1977. As provided in Pub. L. No. 102-307, 106 Stat. 264, registration made during the 28th year of the original term of copyright provided the following benefits to the registrant:

(1) The certificate of registration constituted prima facie evidence as to the validity of the copyright during its renewal term and of the facts stated in the certificate. 17 U.S.C. 304(a)(4)(B).

(2) A derivative work prepared under the authority of a grant of a transfer or license of copyright in a work made before the expiration of the original term of copyright could not continue to be used under the terms of the grant during the renewal term without the authority of the owner of the renewal copyright. 17 U.S.C. 304(a)(4)(A).

(3) The renewal copyright vested upon the beginning of the renewal term in the party entitled to claim the renewal of copyright at the time the application was made as provided under 17 U.S.C. 304(a)(2)(A)(i) and (B)(i).

(e) *Statutory parties entitled to claim copyright for the renewal term under Section 304(a).* (1) Renewal claims must be registered in the name of the party or parties entitled to claim copyright for the renewal term as provided in paragraphs (e)(2) through (4) of this section and as specified in 17 U.S.C. 304(a). If a work was a new version of a previously published or registered work, renewal registration may be claimed only in the new matter.

(2) If the renewal claim was submitted during the last, i.e., the 28th, year of the original term of copyright, the claim had to be registered in the name[s] of the statutory claimant[s] entitled to claim the renewal copyright on the date on which the claim was submitted to the Copyright Office. If the renewal claim is

submitted during the sixty-seven year extended renewal term, the renewal claim can be registered only in the name[s] of the statutory claimant[s] entitled to claim the renewal on the last day (December 31) of the original term of copyright. These eligible renewal claimants are listed below:

(i) The person who, on the applicable day, was the copyright proprietor is the appropriate renewal claimant in any posthumous work or any periodical, encyclopedia, or other composite work upon which the copyright was originally secured by the proprietor;

(ii) The person who, on the applicable day, was the copyright proprietor is the appropriate claimant in any work copyrighted by a corporate body (otherwise than as assignees or licensees of the individual author), or by an employer for whom such work was made for hire;

(iii) For any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the appropriate claimants, in descending order of eligibility, are the person who, on the applicable day, was:

(A) The author(s) of the work, if still living;

(B) The widow(er) and/or child(ren) of the author, if the author was deceased on the applicable day;

(C) The author's executor(s), if still acting in that capacity on the applicable day, provided the author had a will and neither the author, nor any widow(er) or child of the author is still living; or

(D) The author's next of kin, in the absence of a will and if neither the author nor any widow, widower or child of the author is living.

(3) The provisions of paragraphs (e)(1) and (2) of this section are subject to the following qualification:

Notwithstanding the definition of "posthumous work" in paragraph (b)(4) of this section, a renewal claim may be registered in the name of the proprietor of a work, as well as in the name of the appropriate claimant under paragraph (e)(2)(iii) of this section, in any case in which a contract for exploitation of the work but no copyright assignment in the work has occurred during the author's lifetime. However, registration by the Copyright Office in this case should not be interpreted as evidencing the validity of either claim.

(4) The provisions of paragraphs (e)(2)(iii)(C) and (D) of this section are subject to the following qualifications:

(i) In any case where:

(A) The author has left a will which names no executor;

(B) The author has left a will which names an executor who cannot or will not serve in that capacity; or

(C) The author has left a will which names an executor who has been discharged upon settlement of the estate, removed before the estate has been completely administered, or is deceased at the time of the renewal registration submission, the renewal claim may be registered either in the name of an administrator *cum testamento annexo* (administrator c.t.a.) or an administrator *de bonis non cum testamento annexo* (administrator d.b.n.c.t.a.) so appointed by a court of competent jurisdiction.

(ii) In any case described in paragraph (e) of this section, except in the case where the author has left a will without naming an executor and a court-appointed administrator c.t.a. or administrator d.b.n.c.t.a. is in existence at the time of renewal registration, the renewal claim also may be registered in the name of the author's next of kin. However, registration by the Copyright Office of conflicting renewal claims in such a case should not be interpreted as evidencing the validity of either claim.

(f) *Successors/assignees entitled to file an application for the renewal term under Section 304(a).* The provisions of paragraph (e) of this section are subject to the following qualifications:

(1) Where no renewal registration has been made in the name of a person or entity identified in paragraphs (e)(2)(i), (ii) and (iii) of this section, a renewal application may be filed at any time during the renewal term by any successor or assignee of such person or entity.

(2) In such cases described in paragraph (f)(1)(i) of this section, the renewal application must identify the party in whom the renewal copyright vested; must indicate the basis upon which copyright for the renewal term vested in that party; must identify the party who is the successor or assignee of the statutory claimant under 17 U.S.C. 304(a)(3); and, must give the manner by which such successor/assignee secured the renewal copyright.

(3) When such a claim has been filed by a successor or assignee in the name of the statutory claimant as described in paragraph (e)(2)(i), (ii) and (iii) of this section, generally no subsequent claims may be filed by other successors or assignees whose rights are derived from the same statutory claimant. If a public record of renewal ownership is sought by other successors or assignees of the same statutory claimant, the document of transfer of the renewal copyright, either the renewal in its entirety or in

part, may be recorded in the Copyright Office.

(4) Where a successor or assignee claims the renewal right from the same statutory claimant as does another successor or assignee, the Copyright Office may inquire concerning the situation and, if appropriate, may allow adverse renewal claims from the successors/assignees to be placed on the public record. In such cases, correspondence between the parties filing competing renewal claims and the Copyright Office will be, as always, maintained within Office records and subject to public inspection according to regulations found at 37 CFR 201.2.

(g) *Application for renewal registration for a work registered in its original 28-year term.* (1) Each application for renewal registration shall be submitted on Form RE. All forms are available free of charge via the Internet by accessing the Copyright Office homepage at <http://www.copyright.gov>. Copies of Form RE are also available free upon request to the Public Information Office, United States Copyright Office, Library of Congress, 101 Independence Avenue, Washington, DC 20559-6000.

(2) (i) An application for renewal registration may be submitted by any eligible statutory renewal claimant as specified in paragraph (e) of this section or by the duly authorized agent of such claimant, or by the successor or assignee of such claimant as provided under paragraph (f) of this section or by the duly authorized agent of such successor or assignee.

(ii) An application for renewal registration shall be accompanied by the required fee as set forth in 37 CFR 201.3. The application shall contain the information required by the form and its accompanying instructions, and shall include a certification. The certification shall consist of:

(A) A designation of whether the applicant is the renewal claimant, or a successor or assignee, or the duly authorized agent of such claimant or of such successor or assignee (whose identity shall also be given);

(B) The handwritten signature of such claimant, successor or assignee, or agent, accompanied by the typewritten or printed name of that person;

(C) A declaration that the statements made in the application are correct to the best of that person's knowledge; and

(D) The date of certification.

(3) Once a renewal registration has been made, the Copyright Office will not accept another application for renewal registration on behalf of the same renewal claimant.

(h) *Renewal with addendum registration for an unregistered work.* (1) *General.* For published works copyrighted from January 1, 1964, through December 31, 1977, where no registration was made during the original term of copyright and where renewal registration is sought during the 67-year renewal term, the Form RE/Addendum must be used to provide information concerning the original term of copyright. The Form RE/Addendum requires a separate fee and the deposit of one copy or phonorecord of the work as first published (or identifying material in lieu of a copy or phonorecord). The effective date of registration for a renewal claim submitted on a Form RE/Addendum is the date the Copyright Office receives an acceptable completed application, the required fees, and an acceptable deposit for the work.

(2) *Time Limits.* A renewal claim accompanied by an Addendum to Form RE may be filed at any time during the 67-year renewal term.

(3) *Content.* The Form RE/Addendum must contain the following information:

(i) The title of the work;

(ii) The name of the author(s);

(iii) The date of first publication of the work;

(iv) The nation of first publication of the work;

(v) The citizenship of the author(s) on the date of first publication of the work;

(vi) The domicile of the author(s) on the date of first publication of the work;

(vii) An averment that, at the time of first publication, and thereafter until

March 1, 1989 [effective date of the Berne Implementation Act of 1988], all the copies or phonorecords of the work, including reprints of the work,

published, i.e., publicly distributed in the United States or elsewhere, under the authority of the author or other copyright proprietor, bore the copyright notice required by the Copyright Act of 1909 and that United States copyright subsists in the work;

(viii) For works of United States origin which were subject to the manufacturing provisions of section 16 of the Copyright Act of 1909 as it existed at the time the work was published, the Form RE/Addendum must also contain information about the country of manufacture and the manufacturing processes; and

(ix) The handwritten signature of the renewal claimant or successor or assignee, or the duly authorized agent of the claimant or of the successor or assignee. The signature shall be accompanied by the printed or typewritten name of the person signing the Addendum and by the date of the

signature; and shall be immediately preceded by a declaration that the statements made in the application are correct to the best of that person's knowledge.

(4) *Fees.* Form RE and Form RE/Addendum must be accompanied by the required fee for each form as required in 37 CFR 201.3.

(5) *Deposit requirement.* One copy or phonorecord or identifying material of the work as first published in accordance with the deposit requirements set out in 37 CFR 202.20 and 202.21 is required.

(6) *Waiver of the deposit requirement.* Where the renewal applicant asserts that it is either impossible or otherwise an undue hardship to satisfy the deposit requirements of 37 CFR 202.20 and 202.21, the Copyright Office, at its discretion, may, upon receipt of an acceptable explanation of the inability to submit such copy or identifying material, permit the deposit of the following in descending order of preference. In every case, however, proof of the copyright notice showing the content and location of the notice as it appeared on copies or phonorecords of the work as first published must be included.

(i) A reproduction of the entire work as first published (e.g., photocopy, videotape, audiotape, CD-ROM, DVD are examples of physical media which may hold reproductions of a work as first published). If the work is a contribution to a periodical, a reproduction of only the contribution (including the relevant copyright notice) will suffice.

(ii) A reprint of the work (e.g., a later edition, a later release of a phonorecord, or the like). The reprint must show the copyright notice as it appeared in the same location within the first published copy of the work as well as the exact content of the copyright notice appearing in the first published edition. If the copyrightable content of the reprint differs from that of the first published edition, an explanation of the differences between the two editions is required.

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Dated: October 4, 2007.

Marybeth Peters,
Register of Copyrights.

Approved by:

James H. Billington,
The Librarian of Congress.

[FR Doc. E7-21115 Filed 10-31-07; 8:45 am]

BILLING CODE 1410-30-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2007-0293; FRL-8490-2]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; VOC Emissions From Fuel Grade Ethanol Production Operations; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the EPA is withdrawing the September 13, 2007 (72 FR 52286), direct final rule approving the State of Indiana's March 30, 2007, request to revise the Indiana State Implementation Plan (SIP) by adding a volatile organic compound (VOC) rule for fuel grade ethanol production at dry mills. In the direct final rule, EPA stated that if adverse comments were submitted by October 15, 2007, the rule would be withdrawn and not take effect. On October 8, 2007, EPA received a comment. EPA believes this comment is adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on September 13, 2007 (72 FR 52320). EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 72 FR 52286 on September 13, 2007, is withdrawn as of November 1, 2007.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052, Rosenthal.steven@epa.gov.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: October 22, 2007.

Bharat Mathur,
Acting Regional Administrator, Region 5.

PART 52—[AMENDED]

■ Accordingly, the amendment to 40 CFR 52.770 published in the **Federal Register** on September 13, 2007 (72 FR 52286) on pages 52288–52289 is withdrawn as of November 1, 2007.

[FR Doc. E7-21526 Filed 10-31-07; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and

ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.114 are amended as follows: