



# ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559

## PROPOSED REGULATIONS

### REGISTRATION OF CLAIMS TO COPYRIGHT DEPOSIT REQUIREMENTS

The following excerpt is taken from Volume 50, Number 31 of the Federal Register for Thursday, February 14, 1985 (pp. 6208-6217)

#### LIBRARY OF CONGRESS

#### Copyright Office

#### CFR Part 202

(Docket RM 84-2)

#### Registration of Claims To Copyright Deposit Requirements

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

**ACTION:** Proposed regulations.

**SUMMARY:** This notice is issued to inform the public that the Copyright Office of the Library of Congress is considering adopting amendments to 37 CFR 202.19, 202.20 and 202.21 of its regulations. Those regulations implement portions of sections 407 and 408 of the Copyright Act of 1976, title 17 of the U.S. Code. Those sections embody the deposit requirements for the benefit of the Library of Congress and for copyright registration. The amendments revise certain requirements governing such deposits.

**DATES:** All comments should be received on or before March 29, 1985.

**ADDRESSES:** Interested persons should submit ten copies of their written comments to:

Office of the General Counsel, Copyright Office, Library of Congress, Department DS, Washington, D.C. 20540

or if by hand to:

Office of the General Counsel, Copyright

Office, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559 (202) 287-8380.

**SUPPLEMENTARY INFORMATION:** Under 17 U.S.C. 407 the owner of copyright, or of the exclusive right of publication, in a work published with notice of copyright in the United States is required to deposit copies of the work in the Copyright Office for the use or disposition of the Library of Congress. Section 408 of the statute also requires deposit of material in connection with applications for copyright registration of unpublished and published works. After establishing general rules governing the nature of the required deposit, section 408 authorizes the Register of Copyrights to prescribe regulations governing "the nature of the copies or phonorecords to be deposited" and to "require or permit \* \* \* the deposit of identifying material instead of copies or phonorecords \* \* \*."

On September 19, 1978, the Copyright Office published in the Federal Register (43 FR 41975) final regulations implementing the deposit requirements of sections 407 and 408. On the basis of its experience with the deposit regulations over the past several years, the Copyright Office has decided that a number of amendments are needed to liberalize, clarify or, in limited instances, expand the requirements.

1. *Prints, Labels and Other Advertising Matter.* The Copyright

Office has always regarded advertising catalogs as included in the category of works referred to in the deposit regulations as "prints, labels, and other advertising matter published in connection with the rental, lease, lending, licensing, or sale of articles of merchandise, works of authorship, or services." To clarify a widespread misunderstanding among members of the public on this issue, catalogs would be added as a specific category in the two places where this wording appears in the regulation, i.e. § 202.19(c)(7) where such works are exempted from mandatory deposit and § 202.20(c)(2)(v) where deposit requirements for the registration of such works are specified.

2. *Special Relief and the Deposit of Identifying Material.* Section 202.21 of the present regulations governs the form, quantity, and dimensions of any

identifying material submitted in lieu of or in addition to a required deposit, as permitted or required by §§ 209.19 or 202.20. In some cases, supplying identifying material which conforms to the specifications of § 202.21 may cause unnecessary hardship to a depositor. Amendments have been proposed to make it clear that, in cases of hardship, it is possible to modify the requirements for identifying material by using the "special relief" provisions in §§ 202.19 and 202.20. A new subsection would be added to § 202.19(e)(1) and to § 202.20(d)(1) to make it clear that special relief may be extended to permit the deposit of identifying material which does not comply with the specifications of § 202.21. Wording would also be

<sup>1</sup>Error; line should read:  
"CFR §§202.19, 202.20 and 202.21 of its"

added to § 202.21(a) making the specifications for identifying material subject to special relief action under §§ 202.19 and 202.20.

3. *Use of Mandatory Deposit To Satisfy Registration Requirements.* A single deposit can be used to satisfy both the mandatory deposit requirements and the voluntary registration deposit requirements if registration is desired. For one deposit to serve both purposes, the statute requires that the deposit be "accompanied by the prescribed application and fee."

When the 1976 Act first became effective, it was believed that time was needed for the public to become familiar with the new law and to change mailing procedures. Therefore, the "accompanied by" requirement was interpreted liberally. The regulations provided that a deposit of copies of phonorecords that was accompanied by a "clear written request" that the deposit be held for connection with a separately forwarded application and fee would be considered to have been "accompanied by" the application and fee.

The volume of registration material sent separately has increased and the impact on the workflow is significant, especially in the case of motion pictures. The efficiency of the automation procedures being instituted in the Copyright Office could be impaired by this practice. Consequently, the Office intends to apply more strictly the requirements of 17 U.S.C. 408(b) that one deposit may satisfy the requirements of both 17 U.S.C. 407 and 408 if a deposit is "accompanied by the prescribed application and fee." The language providing the option of sending the copies with a "clear written request" that they be held for connection with subsequently submitted applications and fees would be deleted from §§ 202.19(f) and 202.20(e). An application or remittance received without a deposit would be returned immediately. In general, published deposits received without an application and adequate fee or a deposit account number on the application would be transferred to the collections of the Library of Congress and considered deposited only in compliance with 17 U.S.C. 407. A second deposit of copies or phonorecords "accompanied by the prescribed application and fee" would be required subsequently if copyright registration is desired.

4. *Contribution to Collective Works.* Presently the deposit of one complete copy of the collective work, or in the case of a contribution to a newspaper, one copy of the entire section in which the contribution is published, is required for the registration of a contribution to a

collective work. It is proposed to add a new subsection (xv) to § 202.20(c)(2) that would, instead of permitting only the deposit of one complete copy of the collective work, allow the deposit of a photocopy of the contribution itself in the form in which it was published.

5. *Non-viewable Copies of Motion Pictures Submitted for Copyright Registration.* Technology has led to the development, and consequent deposit for registration, of a number of different formats in which motion pictures are fixed. It is impractical and fiscally irresponsible for the Copyright Office to attempt to procure all of the hardware necessary to enable it to examine each different format in which motion pictures may be deposited for registration. Therefore, the regulations would be amended to require that certain identifying material be deposited with each actual copy required, whenever the lack of equipment makes it impossible to examine a deposit for registration purposes. The identifying material would be intended to provide the information necessary to examine works for registration. An effort has been made to make this additional requirement as easy and inexpensive to comply with as possible. Still photographs, for example, would not be required since this could constitute a significant expense for some depositors. Language embodying this requirement would be added to § 202.20(c)(2)(ii); specifications for this identifying material would be given in § 202.21(h). Generally, that material would consist of a written description of the work which includes enough information to enable the Examining Division to determine copyrightability and to record all necessary facts.

6. *Published Multimedia Kits.* Section 202.20(c)(2)(i)(G) required the deposit of one copy of "published multimedia kits that are prepared for use in systematic instructional activities and that include literary works, audiovisual works, sound recordings, or any combination of such works." A new § 202.20(c)(2)(i)(F) would refer to only "published multimedia kits" and delete the remainder of the phrase after "prepared for use in systematic instructional activities," thereby eliminating the organized educational function formerly required.

7. *Literary, Dramatic, and Musical Works Published Only As Embodied in Phonorecords.* A literary, dramatic, or musical work, published only as embodied in a phonorecord is exempt from mandatory deposit under § 202.19(c)(4). To make it clear that the copyright owner need only deposit one phonorecord for registration, a new subsection (H) would be added to § 202.20(c)(2)(i).

8. *Choreographic Works and Pantomimes Published Only As Embodied in Motion Pictures.* A new subsection (I) would be added to § 202.20(c)(2)(i) providing for the deposit of only one copy of choreographic works and of pantomimes published only as embodied in a motion picture. In such cases, no claim of copyright would be made in the motion picture itself.

9. *Two-dimensional works.* The copyright owner of a work published in the form of two-dimensional games, decals, fabric patches or emblems, calendars, instructions for needle work, needle work and craft kits, under a new subsection (J) of § 202.20(c)(2)(i), would be required to deposit only one copy of the work.

10. *Works Reproduced on Three-dimensional Containers.* A new subsection (K) would be added to the deposit regulations at § 202.20(c)(2)(i) to require that the owner of copyright in a box, case, carton, or other three-dimensional container, deposit only one copy of the work.

11. *Holograms.* A new sentence would be added to § 202.20(c)(2)(iii) differentiating the deposit requirements for two and three-dimensional holograms. In the case of three-dimensional works, the required deposit is display instructions and photographs or other identifying material. The new clause would require, for two-dimensional works, that where the image is visible without the aid of a machine or device, an actual copy of the work must be deposited.

12. *Machine-readable copies.* Section 202.20(c)(2)(vii), presently titled "Machine-readable works," would be divided into three clauses: One for computer programs and data bases embodied in machine-readable copies; a second for machine-readable copies of works other than computer programs and data bases; and, finally, a third for works with visually-perceptible and machine-readable copies. The Copyright Office has decided to consistently substitute the term "copy" for "works" in these sections, since the latter are literary, musical, and other creations which are embodied in machine-readable copies. The machine-readable aspect is the embodiment, and not the work itself.

New language would be added to clause (vii)(A) concerning the deposit for revised versions of computer programs. If the revisions occur throughout the entire program, the deposit would be the same as for other computer programs. If the revisions are not contained within the first and last pages, the requisite would be any 5 pages representative of the revised material.

13. *Machine-readable Copies of Works Other Than Computer Programs*

<sup>2</sup>Error; line should read: "pages, the requisite deposit would be any 50"

and Databases. In a new § 202.20(c)(2)(viii), the required deposit for musical compositions, pictorial and graphic works, sound recordings, videogames and other machine-readable files of works other than computer programs and databases, would be identifying material which best represents the copyrightable content of the work. This new section would specify the appropriate deposit for five types of works commonly embodied in machine-readable copies, and provide that for works not covered by the subsection, the form of identifying material would be determined by the Copyright Office, in consultation with the application, on a case-by-case basis.<sup>3</sup>

14. *Works with Visually-perceptible and Machine-readable Copies.* Where a published literary work is comprised of a visually-perceptible and machine-readable copy, as in the case of a manual for computer instruction and its accompanying software, a new § 202.20(c)(2)(ix) would require the deposit of both a visually-perceptible copy and a visually-perceptible reproduction of the machine-readable material, such as a printout of a computer program.

15. *Deposit of Identifying Material for Registration of Wearing Apparel.* Presently, identifying material is required as a deposit for the registration of copyrightable works reproduced on wearing apparel, sheets, and pillow cases. This requirement creates a burden for both the depositor and the Copyright Office. A proposed amendment to § 202.20(c)(2)(x) would allow the deposit of one actual copy of the work if that copy can be folded for storage in a form that does not exceed four inches in thickness. That section would also be altered by the removal of the words "wearing apparel" in the last sentence as an example of a three-dimensional object. Following this change, wearing apparel, sheets and pillow cases would not be included in the language of § 202.20(c)(2)(xi)(A)(2), which requires the deposit of identifying material instead of actual copies of three-dimensional works.

16. *Work reproduced in or on three-dimensional objects.* Section 202.20(c)(2)(xi)(A)(1) presently requires that identifying material be submitted instead of a copy or copies or any "three-dimensional sculptural work, including any illustration or formulation of artistic expression or information in three-dimensional form." Subsection (2) also includes "any . . . three-dimensional work that . . . has been published only in or on jewelry . . . ." Section 202.20(c)(2)(xi)(B) provides, as an exception to subsection (A), for the deposit of actual copies of three-dimensional works. The Office now proposes to omit under subsection (B) "works that are reproduced by intaglio

or relief printing methods on two-dimensional materials such as paper or fabrics." Deposit of identifying material for these works would thereafter be permitted.

Moreover, because the deposit of identifying material often causes hardship to the depositor, the Office proposes to permit the deposit of published jewelry made of base metal and small enough to conform to Office storage limitations. An exception would be added to the end of § 202.20(c)(2)(xi)(B) to allow the deposit of such jewelry. Section 202.20(c)(2)(i)(G) would also be altered to reduce the required number of copies from two to one.

Additionally, the "published works" language presently in § 202.20(c)(2)(ix)(B)(5) would be changed to "published games" in the proposed § 202.20(c)(2)(xi)(B)(3). The Office presently requires the deposit of an actual copy of a published work of dimensions no greater than 12x24x6 inches, with three or more three-dimensional physically separable parts. For published works with less than three three-dimensional physically separable parts, the deposit of identifying material is required. To simplify the deposit requirements, the Office proposes to change the language in subsection (B)(3) to require the deposit of an actual copy

of published games consisting of multiple parts in a box or container of the specified dimensions. Identifying material would be required for the registration of games consisting of multiple parts that are packaged in containers larger than 12x24x6 inches.

(17) *Camera-Ready Copy.* For advertising material, a proposed § 202.20(c)(2)(xiv) would allow the deposit of either camera-ready copy or a copy as published.

(18) *Phonorecords.* Proposed § 202.20(c)(2)(xvi) would require the applicant to submit a special deposit where the Office does not have equipment capable of playing the type or form of the phonorecord submitted for copyright registration. The precise form of the deposit would be established through consultation with the applicant.

(19) *General Identifying Material Specifications.* The Copyright Office proposes to ease the general specifications for identifying material by making three of them more flexible: the requirement that the identifying material reproduce the actual colors in a work; that all pieces of identifying material be the same size; and that the identifying material include the actual dimensions of the work. The identifying material must in the ordinary case show the entire copyrightable content, but the requirement would be liberalized by removing the word "clearly" and by providing that in every case the

identifying material must constitute an "adequate representation of copyrightable content."

In § 202.21(a) the amendment would replace the word "shall" with "should," making the reproduction of actual colors less rigid. Subsection (b) would be changed to allow an adequate representation of copyrightable content in exceptional cases. Subsection (c) would be changed to eliminate the requirement that all pieces of identifying material be the same size. The Copyright Office would impose only a maximum size of 9x12 inches for identifying material. Subsection (d) would be rewritten to state an Office preference for inclusion of dimensions.

(20) *Applicability of the Motion Picture Agreement to Owners of Copyright in Works Published Only Abroad.* The Motion Picture Agreement, a negotiated contract between copyright owners and the Library of Congress, allows the return of deposit copies subject to later recall by the Library of Congress. The agreement was made available to interested members of the public in a July 20, 1978 amendment to § 202.19 and 202.20 of the deposit regulations and is referred to in §§ 202.19(d)(2)(ii) and 202.20(c)(2)(ii). Since that time, an important question has arisen with respect to the use of the agreement. Wording in the agreement indicates that the contract is not available to depositors of copyright in works published only abroad. The Library of Congress has decided, however, to make the agreement available in such cases. To implement this decision, the Copyright Office prepared and is using a modification of the agreement in the case of motion pictures published only abroad.

(21) *Availability of the Motion Picture Agreement to Multimedia Kits.* The Copyright Office has been asked whether the Motion Picture Agreement, referred to in §§ 202.19(d)(2)(ii) and 202.20(c)(2)(ii), is available to owners of copyright in multimedia kits which include audiovisual works as well as literary works, sound recordings, or any combination of such items. The position of the Copyright Office is that the agreement is not available for use with such works. The Motion Picture Agreement is a contract entered into at the discretion of the Library of Congress. Because of handling and processing problems with audiovisual works that are part of a multimedia kit, it is impossible for the Library to offer the contract in such situations.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress nor the

<sup>3</sup> Error; line should read: "the applicant, on a case-by-case basis."

Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.<sup>4</sup>

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has

<sup>4</sup> The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17], except with respect to the making of copies of copyright deposits"). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the office are not subject to APA-FOIA requirements.

determined and hereby certifies that this regulation will have no significant impact on small businesses.

#### List of Subjects in 37 CFR Part 202

Claims, Claims to copyright, Copyright, Registration requirements.

#### Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to amend Part 202 of 37 CFR, Chapter II by revising §§ 202.19, 202.20 and 202.21 as follows:

##### § 202.19 Deposit of published copies of phonorecords for the Library of Congress.

(a) *General.* This section prescribes rules pertaining to the deposit of copies and phonorecords of published works for the Library of Congress under section 407 of title 17 of the United States Code, as amended by Pub. L. 94-553. The provisions of this section are not applicable to the deposit of copies and phonorecords for purposes of copyright registration under section 408 of title 17, except as expressly adopted in § 202.20 of these regulations.

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

(1)(i) The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

(ii) Criteria for selection of the "best edition" from among two or more published editions of the same version of the same work are set forth in the statement entitled "Best Edition of Published Copyrighted Works for the Collections of the Library of Congress" (hereafter referred to as the "Best Edition Statement") in effect at the time of deposit. Copies of the Best Edition

Statement are available upon request made to the Acquisitions and Processing Division of the Copyright Office.

(iii) Where no specific criteria for the selection of the "best edition" are established in the best Edition Statement, that edition which, in the judgement of the Library of Congress, represents the highest quality for its purposes shall be considered the "best edition". In such cases: (A) When the Copyright Office is aware that two or more editions of a work have been published it will consult with other appropriate officials of the Library of Congress to obtain instructions as to the "best edition" and (except in cases for which special relief is granted) will require deposit of that edition; and (B) when a potential depositor is uncertain which of two or more published editions comprises the "best edition", inquiry should be made to the Acquisitions and Processing Division of the Copyright Office.

(iv) Where differences between two or more "editions" of a work represent variations in copyrightable content, each edition is considered a separate version, and hence a different work, for the purpose of this section, and criteria of "best edition" based on such differences do not apply.

(2) A "complete" copy includes all elements comprising the unit of publication of the best edition of the work, including elements that, if considered separately, would not be copyrightable subject matter or would otherwise be exempt from mandatory deposit requirements under paragraph (c) of this section. In the case of sound recordings, a "complete" phonorecord includes the phonorecord, together with any printed or other visually perceptible material published with such phonorecord (such as textual or pictorial matter appearing on record sleeves or album covers, or embodied in leaflets or booklets included in a sleeve, album, or other container). In the case of a musical composition published in copies only, or in both copies and phonorecords: (i) if the only publication of copies in the United States took place by the rental, lease, or lending of a full score and parts, a full score is a "complete" copy; and (ii) if the only publication of copies in the United States took place by the rental, lease, or lending of a conductor's score and parts, a conductor's score is a "complete" copy. In the case of a motion picture, a copy is "complete" if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible

defects or distortions.

(3) The terms "copies", "collective work", "device", "fixed", "literary work", "machine", "motion picture", "phonorecord", "publication", "sound recording", and "useful article", and their variant forms, have the meanings given to them in section 101 of title 17.

(4) "Title 17" means title 17 of the United States Code, as amended by Pub. L. 94-553.

(c) *Exemptions from deposit requirements.* The following categories of material are exempt from the deposit requirements of section 407(a) of title 17:

(1) Diagrams and models illustrating scientific or technical works or formulating scientific or technical information in linear or three-dimensional form, such as an architectural or engineering blueprint, plan, or design, a mechanical drawing, or an anatomical model.

(2) Greeting cards, picture postcards, and stationery.

(3) Lectures, sermons, speeches, and addresses when published individually and not as a collection of the works of one or more authors.

(4) Literary, dramatic, and musical works published only as embodied in phonorecords. This category does not exempt the owner of copyright, or of the exclusive right of publication, in a sound recording resulting from the fixation of such works in a phonorecord from applicable deposit requirements for sound recording.

(5) Literary works, including computer programs and automated data bases, published in the United States only in the form of machine-readable copies (such as magnetic tape or disks, punched cards, or the like) from which the work cannot ordinarily be visually perceived except with the aid of a machine or device. Works published in a form requiring the use of a machine or device for purposes of optical enlargement (such as film, filmstrips, slide films and works published in any variety of microform), and works published in visually perceivable form but used in connections with optical scanning devices, are not within this category and are subject to the applicable deposit requirements.

(6) Three-dimensional sculptural works, and any works published only as reproduced in or on jewelry, dolls, toys, games, plaques, floor coverings, wallpaper and similar commercial wall coverings, textile and other fabrics, packaging material, or any useful article. Globes, relief models, and similar cartographic representations of area are not within this category and are subject to the applicable deposit requirements.

(7) Prints, labels, and other advertising matter, including catalogs, published in connection with the rental, lease, lending, licensing, or sale of articles of merchandise, works of authorship, or

<sup>4</sup> Error; line should read: "by a court of competent jurisdiction that"

<sup>5</sup> Error; line should read: "version, and hence a different work, for"

<sup>6</sup> Error; line should read: "in the United States took place by the"

<sup>7</sup> Error; line should read: "published in visually perceivable form"

services.

(8) Tests, and answer material for tests when published separately from other literary works.

(9) Works first published as individual contributions to collective works. This category does not exempt the owner of copyright, or of the exclusive right of publication, in the collective work as a whole, from the applicable deposit requirements for the collective work.

(10) Works first published outside the United States and later published in the United States without change in copyrightable content, if: (i) Registration for the work was made under 17 U.S.C. 408 before the work was published in the United States; or (ii) registration for the work was made under 17 U.S.C. 408 after the work was published in the United States but before a demand for deposit is made under 17 U.S.C. 407(d).

(11) Works published only as embodied in a soundtrack that is an integral part of a motion picture. This category does not exempt the owner of copyright, or of the exclusive right of publication, in the motion picture, from the applicable deposit requirements for the motion picture.

(12) Motion pictures that consist of television transmission programs and that have been published, if at all, only by reason of a license or other grant to a nonprofit institution of the right to make a fixation of such programs directly from a transmission to the public, without the right to make further uses of such fixations.

(d) *Nature of required deposit.* (1) Subject to the provisions of paragraph (d)(2) of this section, the deposit required to satisfy the provisions of section 407(a) of title 17 shall consist of (i) in the case of published works other than sound recordings, two complete copies of the best edition; and (ii) in the case of published sound recordings, two complete phonorecords of the best edition.

(2) In the case of certain published works not exempt from deposit requirements under paragraph (c) of this section, the following special provisions shall apply:

(i) In the case of published three-dimensional cartographic representations of area, such as globes and relief models, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(ii) In the case of published motion pictures, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section. Any deposit for a published motion picture must be accompanied by a separate description of its contents, such as a continuity, pressbook, or synopsis. The Library of Congress may, at its sole

discretion, enter into an agreement permitting the return of copies of published motion pictures to the depositor under certain conditions and establishing certain rights and obligations of the Library with respect to such copies. In the event of termination of such an agreement by the Library it shall not be subject to reinstatement, nor shall the depositor or any successor in interest of the depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Library it would be in the best interests of the Library to reinstate the agreement or enter into a new agreement.

(iii) In the case of any published work deposited in the form of a hologram, the deposit shall be accompanied by: (A) Two sets of precise instructions for displaying the image fixed in the hologram; and (B) two sets of identifying material in compliance with § 202.21 of these regulations and clearly showing the displayed image.

(iv) In any case where an individual author is the owner of copyright in a published pictorial or graphic work and (A) less than five copies of the work have been published, or (B) the work has been published and sold or offered for sale in a limited edition consisting of no more than three hundred numbered copies, the deposit of one complete copy of the best edition of the work or, alternatively, the deposit of photographs or other identifying material in compliance with § 202.21 of these regulations, will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(v) In the case of a musical composition published in copies only, or in both copies and phonorecords, if the only publication of copies in the United States took place by rental, lease, or lending, the deposit of one complete copy of the best edition will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(vi) In the case of published multimedia kits that are prepared for use in systematic instructional activities and that include literary works, audiovisual works, sound recordings, or any combination of such works, the deposit of one complete copy of the best edition will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(e) *Special relief.* (1) In the case of any published work not exempt from deposit under paragraph (c) of this section, the Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress and upon such conditions as the Register may determine after such consultation: (i) Grant an exemption from the deposit requirements of section 407(a) of title 17 on an individual basis for single works

or series or groups of works; or (ii) permit the deposit of one copy or phonorecord, or alternative identifying material, in lieu of the two copies or phonorecords required by paragraph (d)(1) of this section; or (iii) permit the deposit of incomplete copies or

phonorecords, or copies or phonorecords other than those normally comprising the best edition; or (iv) permit the deposit of identifying material which does not comply with section 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.

(3) Requests for special relief under this paragraph 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 copyright or of the exclusive right of publication in the work, and shall set forth specific reasons why the request should be granted.

(4) The Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress, terminate any ongoing or continuous grant of special relief. Notice of termination shall be given in writing and shall be sent to the individual person or organization to whom the grant of special relief had been given, at the last address shown in the records of the Copyright Office. A notice of termination may be given at any time, but it shall state a specific date of termination that is at least 30 days later than the date the notice is mailed. Termination shall not affect the validity of any deposit earlier made under the grant of special relief.

(f) *Submission and receipt of copies and phonorecords.* (1) All copies and phonorecords deposited in the Copyright Office will be considered to be deposited only in compliance with section 407 of title 17 unless they are accompanied by an application for registration of claim to copyright in the work represented by the deposit, and either a registration fee or a deposit account number on the application. Copies or phonorecords deposited without such an accompanying application and either a fee or a deposit account notation will not be connected with or held for receipt of separate applications, and will not satisfy the deposit provisions of section 408 of title 17 or § 202.20 of these regulations.

(2) All copies and phonorecords deposited in the Copyright Office under

section 407 of title 17, unless accompanied by written instructions to the contrary, will be considered to be deposited by the person or persons named in the copyright notice on the work.

(3) Upon request by the depositor made at the time of the deposit, the Copyright Office will issue a certificate of receipt for the deposit of copies or phonorecords of a work under this section. Certificates of receipts will be issued in response to requests made after the date of deposit only if the requesting party is identified in the records of the Copyright Office as having made the deposit. In either case, requests for a certificate of receipt must be in writing and accompanied by a fee of \$2. A certificate or receipt will include identification of the depositor, the work deposited, and the nature and format of the copy or phonorecord deposited, together with the date of receipt.

#### § 202.20 Deposit of copies and phonorecords for copyright registration.

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

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

(1) The "best edition" of work; has the meaning set forth in § 202.19(b)(1) of these regulations.

(2) A "complete" copy or phonorecord means the following:

(i) *Unpublished works.* Subject to the requirements of paragraph (b)(2)(vi) of this section, a "complete" copy or phonorecord of an unpublished work is a copy or phonorecord representing the entire copyrightable content of the work for which registration is sought;

(ii) *Published works.* Subject to the requirements of paragraph (b)(2) (iii) through (vi) of this Section, a "complete" copy or phonorecord of a published work includes all elements comprising the applicable unit of publication of the work, including elements that, if considered separately, would not be copyrightable subject matter. However, even where certain physically separable elements included in the applicable unit of publication are missing from the deposit, a copy or phonorecord will be considered "complete" for purposes of registration where: (A) The copy or phonorecord deposited contains all parts of the work for which copyright registration is sought; and (B) the removal of the missing elements did not

physically damage the copy or phonorecord or garble its contents; an (C) the work is exempt from the mandatory deposit requirements under section 407 of title 17 of the United States Code and § 202.19(c) of these regulations, or the copy deposited consists entirely of a container, wrapper, or holder, such as an envelope, sleeve, jacket, slipcase, box, bag, folder, binder, or other receptacle acceptable for deposit under paragraph (c)(2) of this section;

(iii) *Contributions to collective works.* In the case of a published contribution to a collective work, a "complete" copy or phonorecord is the entire collective work including the contribution or, in the case of a newspaper, the entire section including the contribution;

(iv) *Sound recordings.* In the case of published sound recordings, a "complete" phonorecord has the meaning set forth in § 202.19(b)(2) of these regulations;

(v) *Musical scores.* In the case of a musical composition published in copies only, or in both copies and phonorecords: (A) If the only publication of copies took place by the rental, lease, or lending of a full score and parts, a full score is a "complete" copy; and (B) if the only publication of copies took place by the rental, lease, or lending of a conductor's score and parts, a conductor's score is a "complete" copy;

(vi) *Motion pictures.* In the case of a published or unpublished motion picture, a copy is "complete" if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, underteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.

(3) The terms "copy," "collective work," "device," "fixed," "literary work," "machine," "motion picture," "phonorecord," "publication," "sound recording," "transmission program," and "useful article," and their variant forms, have the meanings given to them in section 101 of title 17.

(4) A "secure test" is a nonmarketed test administered under supervision at specified centers on specific dates, all copies of which are accounted for and either destroyed or returned to restricted locked storage following each administration. For these purposes a test is not marketed if copies are not sold but it is distributed and used in such a manner that ownership and control of copies remain with the test sponsor or publisher.

(5) "Title 17" means title 17 of the United States Code, as amended by Pub.

L. 94-553.

(6) For the purposes of determining the applicable deposit requirements under this § 202.20 only, the following shall be considered as unpublished motion pictures: motion pictures that consist of television transmission programs and that have been published, if all all, only by reason of a license or other grant to a nonprofit institution of the right to make a fixation of such programs directly from a transmission to the public, with or without the right to make further uses of such fixations.

(c) *Nature of required deposit.* (1) Subject to the provision of paragraph (c)(2) of this section, the deposit required to accompany an application for registration of claim to copyright under section 408 of title 17 shall consist of:

(i) In the case of unpublished works, one complete copy or phonorecord.

(ii) In the case of works first published in the United States before January 1, 1978, two complete copies or phonorecords of the work as first published.

(iii) In the case of works first published in the United States on or after January 1, 1978, two complete copies or phonorecords of the best edition.

(iv) In the case of works first published outside of the United States, whenever published, one complete copy or phonorecord of the work as first published. For the purposes of this section, any works simultaneously first published within and outside of the United States shall be considered to be first published in the United States.

(2) In the case of certain works, the special provisions set forth in this clause shall apply. In any case where this clause specifies that one copy or phonorecord may be submitted, that copy or phonorecord shall represent the best edition, or the work as first published, as set forth in paragraph (c)(1) of this section.

(i) *General.* In the following cases the deposit of one complete copy or phonorecord will suffice in lieu of two copies or phonorecords: (A) Published three-dimensional cartographic representations of area, such as globes and relief models; (B) published diagrams illustrating scientific or technical works or formulating scientific or technical information in linear or other two-dimensional form, such as an architectural or engineering blueprint, or a mechanical drawing; (C) published greeting cards, picture postcards, and stationery; (D) lectures, sermons, speeches, and addresses published individually and not as a collection of the works of one or more authors; (F) musical compositions published in copies only, or in both copies and phonorecords, if the only publication or copies took place by rental, lease, or

<sup>8</sup> Error; line should read: "architectural or engineering blueprint, or"



lending; (F) published multimedia kits; (G) works exempted from the requirement of depositing identifying material under paragraph (c) (2) (xi) (B) and (7) of this section; (H) literary, dramatic, and musical works published only as embodied in phonorecords, although this category does not exempt the owner of copyright in a sound recording; (I) choreographic works and pantomimes published only as embodied in motion pictures (J) published works in the form of two-dimensional games, decals, fabric patches or emblems, calendars, instructions for needle work, needle work and craft kits; and (K) works reproduced on three-dimensional containers such as boxes, cases, and cartons.

(ii) *Motion pictures.* In the case of published or unpublished motion pictures, the deposit of one complete copy will suffice. The deposit of a copy or copies for any published or unpublished motion picture must be accompanied by a separate description of its contents, such as a continuity, pressbook, or synopsis. In any case where the deposit copy or copies required for registration of a motion picture cannot be viewed for examining purposes on equipment in the Examining Division of the Copyright Office, the description accompanying the deposit must comply with section 202.21(h) of these regulations. The Library of Congress may, at its sole discretion, enter into agreement permitting the return of copies of published motion pictures to the depositor under certain conditions and establishing certain rights and obligations of the Library of Congress with respect to such copies. In the event of termination of such an agreement by the Library, it shall not be subject to reinstatement, nor shall the depositor or any successor in interest of the depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Library it would be in the best interests of the Library to reinstate the agreement or enter into a new agreement. In the case of unpublished motion pictures (including television transmission programs that have been fixed and transmitted to the public, but have not been published), the deposit of identifying material in compliance with § 202.21 of these regulations may be made and will suffice in lieu of an actual copy.

(iii) *Holograms.* In the case of any work deposited in the form of a three-dimensional hologram, the copy or copies shall be accompanied by: (A) precise instructions for displaying the image fixed in the hologram; and (B) photographs or other identifying material complying with § 202.21 of these regulations and clearly showing the displayed image. The number of sets

of instructions and identifying material shall be the same as the number of copies required. In the case of a work in the form of a two-dimensional hologram, the image of which is visible without the use of a machine or device, one actual copy of the work shall be deposited.

(iv) *Certain pictorial and graphic works.* In the case of any unpublished pictorial or graphic work, deposit of identifying material in compliance with § 202.21 of these regulations may be made and will suffice in lieu of deposit of an actual copy. In the case of a published pictorial or graphic work, deposit of one complete copy, or of identifying material in compliance with § 202.21 of these regulations, may be made and will suffice in lieu of deposit of two actual copies where an individual author is the owner of copyright, and either: (A) Less than five copies of the work have been published; or (B) the work has been published and sold or offered for sale in a limited edition consisting of no more than 300 numbered copies.

(v) *Commercial prints and labels.* In the case of prints, labels, and other advertising matter, including catalogs, published in connection with the rental, lease, lending, licensing, or sale of articles of merchandise, works of authorship, or services, the deposit of one complete copy will suffice in lieu of two copies. Where the print or label is published in a larger work, such as a newspaper or other periodical, one copy of the entire page or pages upon which it appears may be submitted in lieu of the entire larger work. In the case of prints or labels physically inseparable from a three-dimensional object, identifying material complying with § 202.21 of these regulations must be submitted rather than an actual copy or copies except under the conditions of paragraph (c)(2)(ix)(B)(6) of this section.

(vi) *Tests.* In the case of tests, and answer material for tests, published separately from other literary works, the deposit of one complete copy will suffice in lieu of two copies. In the case of any secure test the Copyright Office will return the deposit to the applicant promptly after examination: *Provided,* That sufficient portions, description, or the like are retained so as to constitute a sufficient archival record of the deposit.

(vii) *Computer programs and data bases embodied in machine-readable copies.* In cases where a computer program, data base, compilation, statistical compendium or the like, if unpublished is fixed, or if published is published only in the form of machine-readable copies (such as magnetic tape or disks, punched cards, or the like) from which the work cannot ordinarily be perceived except with the aid of a machine or device, the deposit shall consist of:

(A) For published or unpublished computer programs, one copy of identifying portions of the program, reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform. For these purposes, "identifying portions" shall mean either the first and last 25 pages or equivalent units of the program if reproduced on paper, or at least the first and last 25 pages or equivalent units of the program if reproduced in microform, together with the page or equivalent unit containing the copyright notice, if any. In the case of revised versions of such works, if the revisions occur throughout the entire computer program, the deposit of the first and last 25 pages will suffice; if the revisions are not contained in the first and last 25 pages, the deposit should consist of any 50 pages representative of the revised material.

(B) For published and unpublished automated data bases, compilations, statistical compendia, and other literary works so fixed or published, one copy of identifying portions of the work, reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform. For these purposes: (1) "identifying portions" shall mean either the first and last 25 pages or equivalent units of the work if reproduced on paper, or at least the first and last 25 pages or equivalent units of work if reproduced on microform, or, in the case of automated data bases comprising separate and distinct data files, representative portions of each separate data file consisting of either 50 complete data records from each file or the entire file, whichever is less; and (2) "data file" and "file" mean a group of data records pertaining to a common subject matter, regardless of the physical size of the records or the number of data items included in them. (In the case of revised versions of such data bases, the portions deposited must contain representative data records which have been added or modified.) In any case where the deposit comprises representative portions of each separate file of an automated data base as indicated above, it shall be accompanied by a typed or printed descriptive statement containing: The title of the data base; the name and address of the copyright claimant; the name and content of each separate file within the data base, including the subject matter involved, the origin(s) of the data, and the approximate number of individual records within the file; and a description of the exact contents of any machine-readable copyright notice employed in or with the work 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.). If a

<sup>9</sup> Error; line should read: "(5) of this section, (H) literary,"

visually perceptible copyright notice is placed on any copies of the work (such as magnetic tape reels or their container) a sample of such notice must also accompany the statement.

(viii) *Machine-readable copies of works other than computer programs and data bases.* Where a literary, musical, pictorial, graphic, or audiovisual work, or a sound recording, except for literary works which are computer programs, data bases, 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 section 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 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) *Works with visually-perceptible and machine-readable copies.* Where a published literary work is comprised of a visually-perceptible copy and a machine-readable copy, the deposit shall consist of one copy of the visually-perceptible material and a visually-perceptible reproduction 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 textile 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 section 202.21 of these regulations instead of a copy. If the sheetlike 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 section 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 in which case one actual swatch or piece of the material as provided in the first two sentences of this clause (x) is acceptable as a deposit.

(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.

(B) In the following cases the requirements of paragraph (c)(2)(ix) (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 12 x 24 x 6 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 or copies of the motion picture.

(xiii) *Oversize deposits.* In any case where the deposit otherwise required by this section exceeds ninety-six 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, photocopy the contribution itself as it was published in the collective work, the entire page of paper containing the contribution or, for newspapers, one



section containing the contribution will suffice in lieu of two complete copies of the entire collective work.

(xvi) *Phonorecords*. In any case where deposit phonorecord or phonorecords submitted for registration of a claim to copyright is inaudible on audio play back devices in the Examining Division of the Copyright Office, the Office will seek an appropriate deposit in accordance with paragraph (d) of this section.

(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 earlier made 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.

#### § 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 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 35 mm in size and, if such transparencies are 3 x 3 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 3 x 3 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 3 x 3 inches and not more than 9 x 12 inches, but preferably 8 x 10 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 3 x 3 inches and no larger than 9 x 12 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) 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: (1) An audio cassette or other phonorecord reproducing the entire soundtrack or other sound portion of the motion picture, and a description of the motion picture; or (2) 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. 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 first and whether or not fixation was simultaneous with first transmission; (iv) the date of first transmission, if any; (v) the running time; and (vi) the credits appearing on the work, if any. The provisions of paragraphs (b), (c), (d), and (e) of this section do not apply to identifying material submitted under this paragraph (g).

<sup>10</sup> Error; line should read: "the date when the work was first"

(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 pressbook, or a synopsis 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) the credits appearing on the work. The provisions of paragraphs (b), (c), and (d) of this section do not apply to identifying material submitted under this paragraph (h).

(17 U.S.C. 407, 408, 702)

Dated: February 6, 1985.  
Donald C. Curran,  
*Acting Register of Copyrights.*

Approved:  
Daniel J. Boorstin,  
*The Librarian of Congress.*

[FR Doc. 85-3755 Filed 2-13-85; 8:45 am]

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