

Federal and State law become increasingly similar. For example, a sound recording published in 1940 would be protected until the end of 2035 instead of February 15, 2067; one published in 1970 would be protected until the end of 2065 instead of February 15, 2067. In the case of one category of works—unpublished sound recordings whose term is measured by the life of author—there would actually be an extension of term if the author died after 1997. For example, if the author of an unpublished pre-1972 sound recording died in 2010, that sound recording would be protected under Federal law until the end of 2080.

In the 1976 Copyright Act, Congress made all unpublished works being brought under Federal law subject to the ordinary statutory term that the 1976 Act provided for copyrighted works: life of the author plus 50 years (later extended by the CTEA to life of the author plus 70 years). However, Congress was concerned that for some works, applying the ordinary statutory copyright terms would mean that copyright protection would have expired by the effective date of the 1976 Copyright Act, or would expire soon thereafter. Congress decided that removing subsisting common law rights and substituting statutory rights for a “reasonable period” would be “fully in harmony with the constitutional requirements of due process.” H.R. Rep. No. 94-1476, at 138–39 (1976). Accordingly, the 1976 Copyright Act included a provision that gave all unpublished works, no matter how old, a minimum period of protection of 25 years, until December 31, 2002. 17 U.S.C. 303. If those works were published by that date, they would get an additional term of protection of 25 years, to December 31, 2027 (later extended by the CTEA to 2047).

If pre-1972 sound recordings were brought under Federal copyright law, should a similar provision be made for those recordings that otherwise would have little or no opportunity for Federal copyright protection? If so, what would be a “reasonable period” in this context, and why? If not, would the legislation encounter constitutional problems (*e.g.*, due process, or Takings Clause issues)?

Increasing the Availability of Pre-1972 Sound Recordings

23. If the requirements of due process make necessary some minimum period of protection, are there exceptions that might be adopted to make those recordings that have no commercial value available for use sooner? For example, would it be worthwhile to consider amending 17 U.S.C. 108(h) to

allow broader use on the terms of that provision throughout any such “minimum period?” Do libraries and archives rely on this provision to make older copyrighted works available? If not, why not?

24. Are there other ways to enhance the ability to use pre-1972 sound recordings during any minimum term, should one be deemed necessary?

25. How might rights holders be encouraged to make existing recordings available on the market? Would a provision like that in section 303—an extended period of protection contingent upon publication—be likely to encourage rights holders to make these works publicly available?

Partial Incorporation

26. The possibility of bringing pre-1972 sound recordings under Federal law only for limited purposes has been raised. For example, some stakeholders seek to ensure that whether or not pre-1972 sound recordings receive Federal copyright protection, they are in any event subject to the fair use doctrine and the library and archives exceptions found in sections 107 and 108, respectively, of the Copyright Act. Others would like to subject pre-1972 sound recordings to the section 114 statutory license, but otherwise keep them within the protection of State law rather than Federal copyright law.

Is it legally possible to bring sound recordings under Federal law for such limited purposes? For example, can (and should) there be a Federal exception (such as fair use) without an underlying Federal right? Can (and should) works that do not enjoy Federal statutory copyright protection nevertheless be subject to statutory licensing under the Federal copyright law? What would be the advantages or disadvantages of such proposals?

Miscellaneous Questions

27. Could the incorporation of pre-1972 sound recordings potentially affect in any way the rights in the underlying works (such as musical works); and if so, in what way?

28. What other uses of pre-1972 recordings, besides preservation and access activities by libraries and other cultural institutions, might be affected by a change from State to Federal protection? For example, to what extent are people currently engaging in commercial or noncommercial use or exploitation of pre-1972 sound recordings, without authorization from the rights holder, in reliance on the current status of protection under State law? If so, in what way? Would protecting pre-1972 sound recordings

under Federal law affect the ability to engage in such activities?

29. To the extent not addressed in response to the preceding question, to what extent are people currently refraining from making use, commercial or noncommercial, of pre-1972 sound recordings in view of the current status of protection under State law; and if so, in what way?

30. Are there other factors relevant to a determination of whether pre-1972 sound recordings should be brought under Federal law, and how that could be accomplished?

Dated: October 29, 2010.

David O. Carson,
General Counsel.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before December 3, 2010. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be

provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740-6001.

E-mail: request.schedule@nara.gov.

Fax: 301-837-3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT:

Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: 301-837-1539. E-mail: records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (*See* 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a

thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Grain Inspection, Packers, and Stockyard Administration (N1-545-08-9, 4 items, 2 temporary items). Records of standing committees, including routine policy administrative files and non-substantive reports. Proposed for permanent retention are agendas, minutes, substantive reports, annual summaries, and records documenting official board and committee accomplishments.

2. Department of Agriculture, Office of the Chief Economist (N1-16-10-6, 1 item, 1 temporary item). Master file of an electronic information system used to manage world agriculture supply and demand estimates and records.

3. Department of Agriculture, Office of the Chief Financial Officer (N1-16-10-7, 2 items, 2 temporary items). Master files of an electronic information system containing individual employee pay records.

4. Department of the Army, Agency-wide (N1-AU-10-86, 1 item, 1 temporary item). Master files of an electronic information system used to create, manage, maintain, and process the lifecycle for all parts estimated or manufactured at Watervliet Arsenal. Included are inventory forms, tooling transfers, issue and return receipts, work order requests, and operational process approvals.

5. Department of the Army, Agency-wide (N1-AU-10-90, 1 item, 1

temporary item). Master files of an electronic information system used to enable applicants to apply online for agency job vacancies.

6. Department of Education, Office of Management (N1-441-09-15, 3 items, 3 temporary items). Records of the Federal Student Aid program, including master files of electronic information systems used to provide oversight, compliance, and improvement services and monitor the performance of schools that participate in Title IV programs.

7. Department of Education, Office of Management (N1-441-09-16, 6 items, 6 temporary items). Master files of electronic information systems used to support the servicing, consolidation, and collection of Federal student aid obligations. The data includes financial statements, promissory notes, payment history, and other related documents.

8. Department of Education, Office of Postsecondary Education (N1-441-09-19, 4 items, 4 temporary items). Records relating to institutions seeking accreditation, including petitions, reports, accrediting decisions, and related correspondence. Also included are master files of an electronic information system containing applications, petitions, and agency reports used in the accreditation process.

9. Department of Health and Human Services, Centers for Medicare and Medicaid Services (N1-440-10-8, 1 item, 1 temporary item). Master files of an electronic information system used to administrate registration for educational and training sessions.

10. Department of Health and Human Services, Food and Drug Administration (N1-88-09-4, 48 items, 47 temporary items). Records of the Center for Veterinary Medicine, including subject files; correspondence; working group files; animal drug pre-marketing and marketing applications and related documentation; master files of an electronic system used to track loans of drug master files; investigational food additive files; food additive petitions; generally recognized as safe notifications and petitions; animal drug experience reports; medicated feed mill licensing files; and master files of an electronic system containing aquaculture information extracted from animal drug applications. Proposed for permanent retention are approved new animal drug product lists (Green Book).

11. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1-567-10-8, 2 items, 2 temporary items). Master files of an electronic information system containing case information regarding

suspended and debarred contractors, and related paper case files.

12. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1-567-10-18, 2 items, 2 temporary items). Case files containing voluntary enrollment forms and correspondence, and master files of an electronic information system containing victim and alien offender data to facilitate victim notification.

13. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1-567-10-19, 1 item, 1 temporary item). Master files of a legacy electronic information system containing case management information for alien detention and removal.

14. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1-567-10-20, 2 items, 2 temporary items). Master files of an electronic information system containing information about selectees for vacant positions.

15. Department of Justice, Tax Division (N1-60-09-1, 1 item, 1 temporary item). Memoranda documenting settlements in tax cases from the 1950s and 1960s.

16. Department of Justice, Justice Management Division (N1-60-10-14, 2 items, 2 temporary items). Record copy of and background information for the Security Program Operating Manual.

17. Department of Justice, United States Attorneys' Offices (N1-118-09-2, 1 item, 1 temporary item). Master files of electronic information systems used to compile intelligence information from other existing systems for case research and investigations.

18. Department of the Treasury, Internal Revenue Service (N1-58-10-5, 3 items, 3 temporary items). Master files, outputs, and system documentation of an electronic information system used to collect data and statistics about revenue from enforcement activities.

19. Department of the Treasury, Internal Revenue Service (N1-58-10-12, 1 item, 1 temporary item). Credit Bureau audit records used to fulfill information requests from credit bureau vendors.

20. Department of the Treasury, Internal Revenue Service (N1-58-10-13, 1 item, 1 temporary item). Master files of an electronic information system used to extract data from other systems and track case inventory of statistics of income for large- and mid-sized business.

21. Department of Veterans Affairs, Veterans Health Administration (N1-15-10-7, 5 items, 5 temporary items). Records relating to the credentialing of

agency employees and health care facilities providing care for veterans.

22. Defense Logistics Agency, Agency-wide (N1-361-10-4, 4 items, 4 temporary items). Master files and outputs of electronic information systems used to track inventories, ordering, and distribution of map products.

23. Environmental Protection Agency, Agency-wide (N1-412-09-18, 1 item, 1 temporary item). Master files of an electronic information system used to disseminate beach water quality and swimming advisory data.

24. Federal Maritime Commission, Office of the Managing Director (N1-358-09-9, 4 items, 4 temporary items). Administrative records including commission orders, policies, and standard operating procedures. Included is the intranet website containing employee forms, telephone directory, agency policies, notifications, and links to agency web applications.

25. U.S. Agency for International Development, Office of the Inspector General (N1-286-09-9, 1 item, 1 temporary item). Master files of an electronic information system used to manage correspondence and workflow.

Dated: October 27, 2010.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

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NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures

The ACRS Subcommittee on Planning and Procedures will hold a meeting on December 1, 2010, in Room T-2B3, at 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Wednesday, December 1, 2010,
12 p.m.–1 p.m.**

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Cayetano Santos (Telephone 301-415-7270 or E-mail Cayetano.Santos@nrc.gov) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010 [75 FR 65038-65039].

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at <http://www.nrc.gov/reading-rm/doc-collections/acrs>. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

Dated: October 27, 2010.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

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