

Copyright Office, Library of Congress

§ 203.2

4. With protective folders rather than without.

VII. Microforms

- A. Related Materials:
 1. With indexes, study guides, or other printed matter rather than without.
 - B. Permanence and Appearance:
 1. Silver halide rather than any other emulsion.
 2. Positive rather than negative.
 3. Color rather than black and white.
 - C. Format (newspapers and newspaper-formatted serials):
 1. Reel microfilm rather than any other microform.
 - D. Format (all other materials):
 1. Microfiche rather than reel microfilm.
 2. Reel microfilm rather than microform cassettes.
 3. Microfilm cassettes rather than micro-opaque prints.
 - E. Size:
 1. 35 mm rather than 16 mm.

VIII. Machine-Readable Copies

- A. Computer Programs
 1. With documents and other accompanying material rather than without.
 2. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).
 3. *Format:*
 - a. PC-DOS or MS-DOS (or other IBM compatible formats, such as XENIX):
 - (i) 5¼" Diskette(s).
 - (ii) 3½" Diskette(s).
 - (iii) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.
 - b. Apple Macintosh:
 - (i) 3½" Diskette(s).
 - (ii) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.
 - B. Computerized Information Works, Including Statistical Compendia, Serials, or Reference Works:
 1. With documentation and other accompanying material rather than without.
 2. With best edition of accompanying program rather than without.
 3. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).
 4. *Format*
 - a. PC-DOS or MS-DOS (or other IBM compatible formats, such as XENIX):
 - (i) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.
 - (ii) 5¼" Diskette(s).
 - (iii) 3½" Diskette(s).
 - b. Apple Macintosh:
 - (i) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

- (ii) 3½" Diskette(s).

IX. Works Existing in More Than One Medium

Editions are listed below in descending order of preference.

- A. Newspapers, dissertations and theses, newspaper-formatted serials:
 1. Microform.
 2. Printed matter.
- B. All other materials:
 1. Printed matter.
 2. Microform.
 3. Phonorecord.

[54 FR 42299, Oct. 16, 1989, as amended at 62 FR 51603, Oct. 2, 1997]

PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

ORGANIZATION

- Sec.
- 203.1 General.
 - 203.2 Authority and functions.
 - 203.3 Organization.

PROCEDURES

- 203.4 Methods of operation.

AVAILABILITY OF INFORMATION

- 203.5 Inspection and copying.

CHARGES FOR SEARCH FOR REPRODUCTION

- 203.6 Schedule of fees and methods of payment for services rendered.

AUTHORITY: 17 U.S.C 702; 5 U.S.C 552, as amended.

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

ORGANIZATION

§ 203.1 General.

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

[43 FR 774, Jan. 4, 1978, as amended at 66 FR 34373, June 28, 2001]

§ 203.2 Authority and functions.

(a) The administration of the copyright law was entrusted to the Library of Congress by an act of Congress in 1870, and the Copyright Office has been a separate department of the Library since 1897. The statutory functions of the Copyright Office are contained in and carried out in accordance with the

§ 203.3

37 CFR Ch. II (7-1-02 Edition)

Copyright Act. Pub. L. 94-553 (90 Stat. 2541-2602), 17 U.S.C. 101-1101.

[43 FR 774, Jan. 4, 1978, as amended at 62 FR 35421, July 1, 1997]

§ 203.3 Organization.

(a) *In general.* The Office of the Register exercises overall direction of the work of the Copyright Office, including work in conjunction with copyright legislation, litigation and promulgation of copyright regulations. The Office of the Register of Copyrights includes the legal, administrative, and automation staff.

(b) The Associate Register of Copyright for Operations has oversight of the operating divisions of the Copyright Office. The operating divisions are:

(1) The Receiving and Processing Division, which receives incoming materials, dispatches outgoing materials and establishes control over fiscal accounts.

(2) The Examining Division, which examines all applications and material presented to the Copyright Office for registration of original and renewal copyright claims, and which determines whether the material deposited constitutes copyrightable subject matter and whether the other legal and formal requirements of title 17 have been met.

(3) The Cataloging Division, which prepares the bibliographic description of all copyrighted works registered in the Copyright Office, including the recording of legal facts of copyright pertaining to each work, in an on-line database in which copyright records can be searched; and which also examines and catalogs in an on-line database documents submitted for recordation.

(4) The Information and Reference Division, which provides a national copyright information service through the Public Information Office, educates the public on the copyright law, issues and distributes information materials, responds to reference requests regarding copyright matters, prepares search reports based upon copyright records, certifies copies of legal documents concerned with copyright, and maintains liaison with the United States Customs Service, the Department of the Treas-

ury, and the United States Postal Service on certain matters. The Information and Reference Division also develops, services, stores, and preserves the official records and catalogs of the Copyright Office, including applications for registration, historical records, and materials deposited for copyright registration that are not selected by the Library of Congress for addition to its collections.

(5) The Licensing Division, which implements the sections of the Copyright Act dealing with secondary transmissions of radio and television programs, compulsory licenses for making and distributing phonorecords of non-dramatic musical, pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. The Licensing Division is in charge of collecting the statutory royalties and distributing these royalties based on either a voluntary agreement among the interested parties or a determination of the Copyright Arbitration Royalty Panels.

(c) The Copyright General Counsel is a principal legal officer of the Office. The General Counsel has overall supervisory responsibility for the legal staff and primary responsibility for providing liaison on legal matters between the Office and the Congress, the Department of Justice and other agencies of Government, the courts, the legal community, and a wide range of interests affected by the copyright law. The Copyright General Counsel has responsibility for overseeing all functions related to the administration of the compulsory licenses including oversight of the Copyright Arbitration Royalty Panels.

(d) The Associate Register of Copyrights for International Affairs and Policy is a principal legal adviser to the Register with primary responsibility for the international aspects of copyright protection, as well as legislative and policy matters.

(e) The Associate Register of Copyrights for National Programs is primarily responsible for initiating, planning, developing, and implementing projects and activities related to the Copyright Office electronic registration, recordations, and deposit system (CORDS).

Copyright Office, Library of Congress

§ 203.4

(f) The Office has no field organization.

(g) The Office is located in The James Madison Memorial Building of the Library of Congress, 1st and Independence Avenue, SE, Washington, DC, 20559-6000. The Public Information Office is located in Room LM-401. Its hours are 8:30 a.m. to 5 p.m., Monday through Friday except legal holidays. The phone number of the Public Information Office is (202) 707-3000. Informational material regarding the copyright law, the registration process, fees, and related information about the Copyright Office and its functions may be obtained free of charge from the Public Information Office upon request.

(h) All Copyright Office forms may be obtained free of charge from the Public Information Office or by calling the Copyright Office Hotline anytime day or night at (202) 707-9100.

(i) The Copyright Office maintains an "electronic reading room" by making available certain documents and records on its World Wide Web page and by providing access to documents that affect the public in electronic format pursuant to 5 USC 552(a)(2). Copyright Office records in machine-readable form cataloged from January 1, 1978, to the present, including registration information and recorded documents, are available on the Internet. Frequently requested Copyright Office circulars, announcements, and recently proposed as well as final regulations are available on-line. The address for the Copyright Office's home page is: <http://www.loc.gov/copyright>; information may also be accessed by connecting to the Library of Congress' home page on the World Wide Web. The address is: <http://www.loc.gov>. Other Copyright Office documents may be provided on disk when so requested.

[60 FR 34168, June 30, 1995, as amended at 62 FR 55742, Oct. 28, 1997; 64 FR 36575, July 7, 1999; 65 FR 39819, June 28, 2000; 66 FR 34373, June 28, 2001]

PROCEDURES

§ 203.4 Methods of operation.

(a) In accordance with section 552(a)(2) of the Freedom of Information Act, the Copyright Office makes avail-

able for public inspection and copying records of copyright registrations and of final refusals to register claims to copyright; statements of policy and interpretations which have been adopted but are not published in the FEDERAL REGISTER; and administrative staff manuals and instructions to the staff that affect a member of the public.

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

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

(d) The Supervisory Copyright Information Specialist is responsible for responding to all initial requests submitted under the Freedom of Information Act. Individuals desiring to obtain access to Copyright Office information under the Act should make a written request to that effect either by mail to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559-6000, or in person between the hours of 8:30 a.m. and 5 p.m. on any working day except legal holidays at Room LM-401, The James Madison Memorial Building, 1st and Independence Avenue, SE, Washington, DC. If a request is made by mail, both the request and the envelope containing it should be plainly marked Freedom of Information Act Request. Failure to so mark a mailed request may delay the Office response.

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

(f) The Office will respond to all properly marked mailed requests and all personally delivered written requests for records within twenty (20) working days of receipt by the Supervisory Copyright Information Specialist. Inquiries should be mailed to: Copyright Office, GC/I&R, P.O. Box 70400 Southwest Station, Washington, DC 20024. If hand delivered, materials should go to: Copyright Public Information Office, LM 401, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE, Washington, DC. Office hours are from 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. If it is determined that an extension of time greater than ten (10) working days is necessary to respond to a request due to unusual circumstances, as defined in paragraph (i) of this section, the Supervisory Copyright Information Specialist shall so notify the requester and give the requester the opportunity to:

(1) Limit the scope of the request so that it may be processed within twenty (20) working days, or

(2) Arrange with the Office an alternative time frame for processing the request or a modified request. If a request is denied, the written notification will include the basis for the denial, names of all individuals who participated in the determination, and procedures available to appeal the determination. If a requester wishes to appeal a denial of some or all of his or her request for information, he or she must make an appeal in writing within 30 calendar days of the date of the Office's denial. The request should be directed to the General Counsel of the United States Copyright Office at: Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC

20024. The appeal should be clearly labeled 'Freedom of Information Act Appeal'.

(g) The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be set forth in writing and signed by the General Counsel or his or her delegate within 20 working days. If, on appeal, the denial is in whole or in part upheld, the written determination will include the basis for the appeal denial and will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

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

(1) The need to search for and collect the requested records from establishments that are physically separate from the office processing the request;

(2) The need to search for, collect, and examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practical speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Copyright Office which have a substantial subject matter interest therein.

(i) The Supervisory Copyright Information Specialist will consider requests for expedited processing of requests in cases where the requester demonstrates a compelling need for such processing. The term "compelling need" means:

Copyright Office, Library of Congress

§ 203.6

(1) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity. Requesters for expedited processing must include in their requests a statement setting forth the basis for the claim that a “compelling need” exists for the requested information, certified by the requester to be true and correct to the best of his or her knowledge and belief. The Office will determine whether to grant a request for expedited processing and will notify the requester of such determination within ten (10) days of receipt of the request. If a request for expedited processing is approved, documents responsive to the request will be processed as soon as is practicable. Denials of requests for expedited processing may be appealed to the Office of the General Counsel.

[43 FR 774, Jan. 4, 1978, as amended at 47 FR 36820, Aug. 24, 1982; 62 FR 55742, Oct. 28, 1997; 63 FR 1927, Jan 13, 1998; 64 FR 36575, July 7, 1999; 65 FR 39819, June 28, 2000; 66 FR 34373, June 28, 2001]

AVAILABILITY OF INFORMATION

§ 203.5 Inspection and copying.

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

CHARGES FOR SEARCH FOR REPRODUCTION

§ 203.6 Schedule of fees and methods of payment for services rendered.

(a) *General.* The fee schedule of this section does not apply with respect to the charging of fees for those records for which the Copyright Act of 1976, title 17 of the United States Code (Pub. L. 94-553) requires a fee to be charged. The fees required to be charged are contained in § 201.3 of this chapter, or have been established by the Register of Copyrights or Library of Congress pursuant to the requirements of that section. If the Copyright Office receives a request for copies or other services involving the public records or indexes of the Office or for copies of deposited articles for which a fee is required to be charged, the Office will notify the requester of the procedure established to obtain the copies or services and the amount of the chargeable fees. Fees pursuant to title 5 U.S.C., section 552 for all other services not involving the public records of the Copyright Office will be assessed according to the schedule in paragraph (b) of this section. All fees so assessed shall be charged to the requester, except where the charge is limited under paragraph (c) of this section or where a waiver or reduction of fees is granted under paragraph (d) of this section. Requests by record subjects asking for copies of records about themselves shall be processed under the Privacy Act fee schedule found in 37 CFR 204.6.

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

(1) For copies of certificates of copyright registration, \$25.

(2) For copies of all other Copyright Office records not otherwise provided for in this section a minimum fee of \$15.00 for up to 15 pages and \$.50 per page over 15.

(3) For each hour or fraction of an hour spent in searching for a requested record, \$65, except that no search fee

shall be assessed with respect to requests by educational institutions, non-commercial scientific institutions, and representatives of the news media. Search fees shall be assessed with respect to all other requests, subject to the limitations of paragraph (c) of this section. Fees may be assessed for time spent searching even if the search fails to locate any responsive records or where the records located are subsequently determined to be entirely exempt from disclosure.

(4) For the issuance of any certification, \$65 for each hour or fraction of an hour consumed in respect thereto.

(5) Other costs incurred by the Copy-right Office in fulfilling a request will be chargeable at the actual cost of the Office.

(6) For computer searches of records, which may be undertaken through the use of existing programing, the actual direct costs of conducting the search including the cost of operating a central processing unit for that portion of operating time that is directly attributable to searching for records responsive to a request, as well as the direct costs of operator/programmer salary apportionable to search (at no less than \$65 per hour or fraction thereof).

(7) No review fees will be charged for time spent in resolving legal or policy issues affecting access to Office records. No charge will be made for the time involved in examining records to determine whether some or all such records may be withheld.

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

(1) Except for requesters seeking records for commercial use the following will be provided without charge—

(i) The first 100 pages of duplication (or its cost equivalent), and

(ii) The first two hours of search (or its cost equivalent).

(2) No fees will be charged for ordinary packaging and mailing costs.

(d) *Waiver or reduction of fees.* (1) Records responsive to a request under 5 U.S.C. 552 shall be furnished without charge or at a charge reduced below that established under paragraph (b) of this section where the Office determines, based upon information provided by a requester in support of a fee

waiver request or otherwise made known to the Office, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees shall be considered on a case-by-case basis.

(2) In order to determine whether the first fee waiver requirement is met—i.e., that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government—the Office shall consider the following four factors in sequence:

(i) The subject of the request: Whether the subject of the requested records concerns “the operations or activities of the government.”

(ii) The informative value of the information to be disclosed: Whether the disclosure is “likely to contribute” to an understanding of government operations or activities.

(iii) The contribution to an understanding of the subject by the public likely to result from disclosures: Whether disclosure of the requested information will contribute to “public understanding.”

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities.

(3) In order to determine whether the second fee waiver requirement is met—i.e., that disclosure of the requested information is not primarily in the commercial interest of the requester—the Office shall consider the following two factors in sequence:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure.

(ii) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily

in the commercial interest of the requester.”

(4) Where only a portion of the requested records satisfies both of the requirements for a waiver or reduction of fees under this paragraph, a waiver or reduction shall be granted only as to that portion.

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

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

(g) *Advance payments.* (1) Where the Office estimates that a total fee to be assessed under this section is likely to exceed \$250.00, it may require the requester to make an advance payment of an amount up to the entire estimated fee before beginning to process the request, except where it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(2) Where a requester has previously failed to pay a records access fee within 30 days of the date of billing, the Office may require the requester to pay the full amount owed, plus any applicable interest (as provided for in para-

graph (h) of this section), and to make an advance payment of the full amount of any estimated fee before the Office begins to process a new request or continues to process a pending request from that requester.

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

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

[53 FR 8456, Mar. 15, 1988, as amended at 56 FR 59885, Nov. 26, 1991; 62 FR 55742, Oct. 28, 1997; 63 FR 29139, May 28, 1998; 64 FR 29522, June 1, 1999; 66 FR 34373, June 28, 2001]

PART 204—PRIVACY ACT: POLICIES AND PROCEDURES

Sec.

204.1 Purposes and scope.

204.2 Definitions.

204.3 General policy.

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

204.5 Procedures for requesting access to records.

204.6 Fees.

204.7 Request for correction or amendment of records.

204.8 Appeal of refusal to correct or amend an individual's record.

204.9 Judicial review.

AUTHORITY: 17 U.S.C. 702; 5 U.S.C. 552(a).

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

§ 204.1 Purposes and scope.

The purposes of these regulations are:

(a) The establishment of procedures by which an individual can determine