

§§ 202.13–202.15

37 CFR Ch. II (7–1–12 Edition)

card must submit a separate cover letter stating the name of the credit card, the credit card number, the expiration date of the credit card, the total amount authorized and a signature authorizing the Office to charge the fees to the account. To protect the security of the credit card number, the applicant must not write the credit card number on the registration application.

(4) *Deposit*—(i) *General*. The deposit for a work registered as a restored work under the amended section 104A, except for those works listed in paragraphs (c)(4) (ii) through (iv) of this section, should consist of one copy or phonorecord which best represents the copyrightable content of the restored work. In descending order of preference, the deposit should be:

- (A) The work as first published;
- (B) A reprint or re-release of the work as first published;
- (C) A photocopy or identical reproduction of the work as first published; or
- (D) A revised version which includes a substantial amount of the copyrightable content of the restored work with an indication in writing of the percentage of the restored work appearing in the revision.

(ii) *Previously registered works*. No deposit is needed for works previously registered in the Copyright Office.

(iii) *Works embodied solely in machine-readable format*. For works embodied only in machine-readable formats, the deposit requirements are as follows:

- (A) One machine-readable copy and a descriptive statement of the work; or
- (B) Representative excerpts of the work, such as printouts; or, if the claim extends to audiovisual elements in the work, a videotape of what appears on the screen.

(iv) *Pictorial, graphic and sculptural works*. With the exception of 3-dimensional works of art, the general deposit preferences specified under paragraph (c)(4)(i) of this section shall govern. For 3-dimensional works of art, the preferred deposit is one or more photographs of the work, preferably in color.

(v) *Special relief*. An applicant who is unable to submit any of the preferred deposits may seek an alternative deposit under special relief (37 CFR

202.20(d)). In such a case, the applicant should indicate in writing why the deposit preferences cannot be met, and submit alternative identifying materials clearly showing some portion of the copyrightable contents of the restored work which is the subject of registration.

(vi) *Motion pictures*. If the deposit is a film print (16 or 35 mm), the applicant should contact the Performing Arts Division of the Registration Program for delivery instructions. The telephone number is: (202) 707-6040; the telefax number is: (202) 707-1236.

(d) *Works excluded*. Works which are not copyrightable subject matter under title 17 of the U.S. Code, other than sound recordings fixed before February 15, 1972, shall not be registered as restored copyrights.

[60 FR 50422, Sept. 29, 1995, as amended at 64 FR 12902, Mar. 16, 1999; 64 FR 29522, June 1, 1999; 71 FR 31092, June 1, 2006; 72 FR 36888, July 6, 2007; 73 FR 37839, July 2, 2008]

§§ 202.13–202.15 [Reserved]

§ 202.16 Preregistration of copyrights.

(a) *General*. This section prescribes rules pertaining to the preregistration of copyright claims in works eligible for preregistration under Section 408(f) of 17 U.S.C.

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

(1) A work is in a class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release if it falls within one of the following classes of works:

- (i) Motion pictures;
- (ii) Sound recordings;
- (iii) Musical compositions;
- (iv) Literary works being prepared for publication in book form;
- (v) Computer programs (including videogames); or
- (vi) Advertising or marketing photographs.

(2) A work is being prepared for commercial distribution if:

(i) The claimant, in a statement certified by the authorized preregistering party, has a reasonable expectation that the work will be commercially distributed to the public; and