

Dated: January 28, 2004.

**Gerald M. Swanson,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.*

[FR Doc. 04-4209 Filed 2-25-04; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 202

[Docket No. RM 2004-1]

#### “Best Edition” of Published Motion Pictures for the Collections of the Library of Congress

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

**ACTION:** Final rule with request for comments.

**SUMMARY:** Owners of motion pictures that have been published must submit copies of their movies to the Copyright Office for the Library of Congress to use and include in its collections. This mandatory deposit requirement may be satisfied at the same time that an application for copyright registration is submitted. In order to obtain copies of superior quality when works are published in more than one format, the Library of Congress established “best edition” requirements. The purpose of this rule is to amend the best edition requirements for motion pictures to take into account recent technological developments and to make editorial changes that clarify the requirements.

**DATES:** Effective date: This rule shall take effect April 26, 2004.

*Comment Date:* Comments are due by March 29, 2004.

**ADDRESSES:** An original and ten copies of any comment shall be sent to the Copyright Office. If comments are mailed, the address is: Copyright Office GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024-0400. If comments are hand delivered by a commercial, non-government courier or messenger, comments must be delivered to: the Congressional Courier Acceptance Site, located at Second and D Streets, NE., between 8:30 a.m. and 4 p.m., e.s.t. If hand delivered by a private party, they must be delivered to the Public Information Office, James Madison Memorial Building, Room 401, First and Independence Street, Washington, DC between 8:30 a.m. and 5 p.m., e.s.t.

**FOR FURTHER INFORMATION CONTACT:**

Marilyn J. Kretsinger, Associate General Counsel, or Renee Coe, Senior Attorney,

Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024-0400. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Sections 407 and 408 of title 17, United States Code, require that owners of any motion picture that has been published must deposit a copy of the work with the Copyright Office for the use of the Library of Congress. The copy submitted must be the “best edition” of the work, which 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.” 17 U.S.C. 101 (definition of best edition). Based on that statutory requirement, the regulations require that “when two or more editions of the same version of a work have been published, the one of the highest quality is generally considered to be the best edition.” 37 CFR 202, App. B. The criteria for what constitutes the best edition, for all kinds of copyrighted works, are contained in Appendix B of 37 CFR 202, which is entitled “Best Edition” of Published Copyrighted Works for the Collections of the Library of Congress.” Subpart III of Appendix B establishes the requirements for motion pictures, ranking movie formats for commercial and home viewing in descending order of preference relative to their quality, beginning with the format that is most suitable for the Library’s purposes. This regulation amends subpart III to make changes that take into account recent technological developments and to make editorial changes that clarify the requirements.

#### II. Changes to Best Edition Rule

##### A. Film Formats

The only change to the requirements for film formats is to add 70 millimeter positive print as the most desirable film format (apart from preprint material, by special arrangement). The addition of this film format to the regulation clarifies the Library’s desire to obtain published motion pictures in a superior format. This format is only required where the original production negative size is greater than 35 millimeters.

##### B. Video Formats

*One-Inch Open Reel Tape.* One-inch open reel tape has been deleted from subpart III of the best edition list because it is a defunct format.

*BetacamSP, Digibeta and Betacam.* Betacam SP will continue to be on the list and digibeta, also known as digital

beta, has been added. These are videocassettes in analog and digital formats, respectively, that are now widely used in the television industry. Both are better quality than the format that is commonly known as “betacam,” which has been deleted from the list.

*D-2.* D-2 is an obsolete version of the D Series. The current version is D-9. However, the format for the D Series has been entirely eliminated from the list because each version rapidly becomes obsolete.

*DVD and Videodisc.* DVDs, which are 4¾ inch disks in digital format for home viewing of films, are replacing videodiscs on the list, which are 12 inch disks in analog format.

*Three-Quarter Inch Cassette.* Three-quarter inch cassette, also commonly known as “U-matic,” has been removed from the list because it is a defunct format.

*One-Half Inch VHS Cassette and VHS Cassette.* Changing “one-half inch VHS cassette” to “VHS cassette” is an editorial change. “VHS cassette” is now the commonly used term for this home viewing format.

#### III. Written Comments

The Copyright Office is publishing this amendment as a final rule because owners of published motion pictures have already begun complying with these changes to the best edition requirements. The Office believes these changes are noncontroversial and will elicit no significant adverse comment. However, the Office is providing the public an opportunity to submit written comments by March 29, 2004. The rule will take effect April 26, 2004, unless the Copyright Office has received adverse substantive comments and publishes a notice withdrawing the rule before that date.

#### IV. Regulatory Flexibility Act Statement

Although the Copyright Office, as a department of the Library of Congress and part of the Legislative Branch, is not an “agency” subject to the Regulatory Flexibility Act, 5 U.S.C. 601-612, the Register of Copyrights has considered the effect of the proposed amendment on small businesses. The Register has determined that the amendments would not have a significant economic impact on a substantial number of small business entities that would require a provision of special relief for them. The proposed amendments are designed to minimize any significant economic impact on small business entities.

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

Claims, Copyright.

### Proposed Regulations

■ In consideration of the foregoing, the Copyright Office amends part 202 of 37 CFR in the manner set forth below:

#### PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

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

Authority: 17 U.S.C. 702.

■ 2. In part 202, Appendix B, “III. Motion Pictures” is revised to read as follows:

#### Appendix B to Part 202—“Best Edition” of Published Copyrighted Works for the Collections of the Library of Congress

\* \* \* \* \*

#### III. Motion Pictures

Film medium is considered a better quality than any other medium. The formats under “film” and “video formats” are listed in descending order of preference:

##### A. Film

1. Preprint material, by special arrangement
2. 70 mm positive print, if original production negative is greater than 35 mm
3. 35 mm positive prints
4. 16 mm positive prints

##### B. Video Formats

1. Betacam SP
2. Digital Beta (Digibeta)
3. DVD
4. VHS Cassette

\* \* \* \* \*

Dated: February 11, 2004.

**Marybeth Peters,**

*Register of Copyrights.*

Approved by:

**James H. Billington,**

*The Librarian of Congress.*

[FR Doc. 04–3958 Filed 2–25–04; 8:45 am]

BILLING CODE 1410–30–P

### LIBRARY OF CONGRESS

#### Copyright Office

#### 37 CFR Part 262

[Docket Nos. 2002–1 CARP DTRA3 and 2001–2 CARP DTNSRA]

#### Digital Performance Right in Sound Recordings and Ephemeral Recordings

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

**ACTION:** Correction to final rule.

**SUMMARY:** This document corrects an error contained in the definition section of the final rule published on February 6, 2004, that set rates and terms for the public performance of a sound recording made pursuant to a statutory license by means of certain eligible nonsubscription transmissions and digital transmissions made by a new subscription service.

**EFFECTIVE DATE:** March 8, 2004.

#### FOR FURTHER INFORMATION CONTACT:

David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380; Telefax: (202) 252–3423.

**SUPPLEMENTARY INFORMATION:** On May 8, 2003, the parties to this rate adjustment proceeding presented the Librarian of Congress with a settlement proposing the rates and terms for the use of sound recordings in eligible nonsubscription transmissions and new subscription services pursuant to the section 112 and section 114 statutory licenses. Section 251.63(b) of title 37 of the Code of Federal Regulations allows the Librarian to adopt the parties’ proposed rates and terms without convening a Copyright Arbitration Royalty Panel (“CARP”), provided the proposed rates and terms are published in the **Federal Register** and no interested party with an intent to participate in the proceeding files an objection to the proposed rates and/or terms. Accordingly, on May 20, 2003, the Copyright Office published the proposed regulations for notice and comment. 69 FR 27506 (May 20, 2003). However, the published document contained an error in § 262.2(a), which defines the term “Aggregate Tuning Hours.” The error appeared in the example illustrating the calculation of Aggregate Tuning Hours and apparently occurred as the **Federal Register** conformed the document to its style requirements. At that time, the **Federal Register** inadvertently changed the phrase “If three minutes” to “If 30 minutes.” This error went undetected; as a result, it also appeared in the final rule document published on February 6, 2004. This document corrects that error.

#### List of Subjects in 37 CFR Part 262

Copyright, Digital audio transmissions, Performance right, Sound recordings

#### Correction

■ In FR Doc. 04–2535 appearing on page 5693 in the **Federal Register** of Friday, February 6, 2004, make the following correction:

#### § 262.2 [Corrected]

■ On page 5696, in the first column, in paragraph (a), in the tenth line, the phrase “If 30 minutes” is corrected to read “If 3 minutes”.

Dated: February 17, 2004.

**Marybeth Peters,**

*Register of Copyrights.*

[FR Doc. 04–3957 Filed 2–25–04; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[PA 210–4302; FRL–7616–6]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions To Update the 1-Hour Ozone Maintenance Plan for the Reading Area (Berks County)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions amend Pennsylvania’s ten-year plan to maintain the 1-hour ozone national ambient air quality standard (NAAQS) in the Reading area (Berks County). The maintenance plan is being amended to revise the attainment year inventories and motor vehicle emission budgets using MOBILE6. The contingency measures portion of the plan is also being amended. The intended effect of this action is to approve SIP revisions that will better enable the Commonwealth of Pennsylvania to continue to maintain attainment of the 1-hour NAAQS for ozone in the Reading area. This action is being taken under the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective on March 29, 2004.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Martin Kotsch, (215) 814–3335, or by e-mail at [Kotsch.Martin@epa.gov](mailto:Kotsch.Martin@epa.gov).

**SUPPLEMENTARY INFORMATION:**