numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; or by Fax: 202–395–5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT:
Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Notification of Employee Rights under Federal Labor Laws information collection. President Barack Obama signed Executive Order 13496 (E.O. 13496) on January 30, 2009, requiring certain Government contractors and subcontractors to post notices informing their employees of their rights as employees under Federal labor laws. Regulations 29 CFR 471.11 provides for DOL to accept a written complaint alleging that a contractor doing business with the Federal government has failed to post the notice required by E.O. 13496. The section establishes that no special complaint form is required; however, a complaint must be in writing. In addition, the complaint must contain certain information, including the name, address, and telephone number of the person submitting the complaint and the name and address of the Federal contractor alleged to have violated the rule. The section also establishes that a written complaint may be submitted to either the Office of Federal Contract Compliance Programs or the OLMS. E.O. 13496 section 3 authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1245–0004.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2016. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the Federal Register on February 11, 2016 (81 FR 7375).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within thirty (30) days of publication of this notice in the Federal Register. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1245–0004. The OMB is particularly interested in comments that:
• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
• Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
• Enhance the quality, utility, and clarity of the information to be collected; and
• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OLMS.
Title of Collection: Notification of Employee Rights under Federal Labor Laws.
OMB Control Number: 1245–0004.
Affected Public: Individuals or Households.
Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 10.
Total Estimated Annual Time Burden: 13 hours.
Total Estimated Annual Other Costs Burden: $5.
Dated: June 1, 2016.
Michel Smyth, Departmental Clearance Officer.

[FR Doc. 2016–13306 Filed 6–6–16; 8:45 am]
BILLING CODE 4510–CP–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2016–4]

Section 108: Draft Revision of the Library and Archives Exceptions in U.S. Copyright Law

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The United States Copyright Office is inviting interested parties to discuss potential revisions relating to the library and archives exceptions in the Copyright Act, 17 U.S.C. 108, in furtherance of the Copyright Office’s policy work in this area over the past ten years and as part of the current copyright review process in Congress. The Copyright Office has led and participated in major discussions on potential changes to section 108 since 2005, with the goal of updating the provisions to better reflect the facts, practices, and principles of the digital age and to provide greater clarity for libraries, archives, and museums. To finalize its legislative recommendation, the Copyright Office seeks further input from the public on several remaining issues, including, especially, provisions concerning copies for users, security measures, public access, and third-party outsourcing. The Copyright Office therefore invites interested parties to schedule meetings in Washington, DC to take place during late June through July 2016, using the meeting request form referenced below.

DATES: Written meeting requests must be received no later than 11:59 p.m. Eastern Time on July 7, 2016.

ADDRESSES: Please fill out the meeting request form found at www.copyright.gov/policy/section108, being sure to indicate which topics you would like to discuss. Meetings will be held at the U.S. Copyright Office, 101 Independence Ave. SE (Madison Building, Library of Congress),
Washington, DC 20540, or as necessary, by phone.

FOR FURTHER INFORMATION CONTACT: Chris Weston, Attorney-Advisor, Office of the General Counsel, cwest@loc.gov, 202–707–8380; Emily Lanza, Counsel, Office of Policy and International Affairs, emla@loc.gov, 202–707–1027; or Aurelia J. Schultz, Counsel, Office of Policy and International Affairs, aschu@loc.gov, 202–707–1027.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted section 108 of title 17 in 1976, authorizing libraries and archives to reproduce and distribute certain copyrighted works on a limited basis for the purposes of preservation, replacement, and research, placing those excepted activities outside the scope of exclusive rights set forth in section 106. Before 1976, these institutions relied on a combination of common law and professional practices to help determine the scope of permissible activities under the law, including non-binding agreements between libraries and publishers. As libraries and archives increasingly employed photocopying in the 1950s and 1960s, however, Congress began to explore the need for clearer guidance for all involved. In 1966, the House Judiciary Committee noted that past efforts to come to a reasonable arrangement on library photocopying had failed and urged “all concerned to resume their efforts to reach an accommodation under which the needs of scholarship and the rights of authors would both be respected.” Several years later, the Senate Judiciary Committee also noted photocopying’s role in the “evolution in the functioning and services of libraries” and the need for Congress to respond to these changes in technology with a statutory exception.

Crafting an appropriate statutory exception for libraries and archives was part of a larger revision process undertaken and enacted by Congress as part of the 1976 Copyright Act. A key characteristic of section 108 is that it provides specific exceptions pertaining to frequent library and archives activities, such as preservation copying and making and distributing copies for users, but does not preclude these institutions from relying upon the more general fair use exception of section 107 as well. In fact, Congress enacted an express savings clause for fair use, thereby ensuring that courts could look to both provisions.

As demonstrated by its focus on photocopying, section 108 was designed to address the prevalent use of print-based analog technology occurring at the time of enactment. Despite some minor adjustments in the Digital Millennium Copyright Act of 1998, which partially took account of digital reproduction capabilities, the exceptions in section 108 therefore are stuck in time. They did not anticipate and no longer address the ways in which copyrighted works are created, distributed, preserved, and accessed in the twenty-first century. Additionally, over time the structure and wording of section 108 have proven to be difficult to implement for both lawyer and layperson. Ultimately, section 108 embodies some now-outmoded assumptions about technology, behavior, professional practices, and business models that require revision and updating.

The key aspects of section 108 and the policy work conducted to date are summarized below.

A. Overview of Section 108

Section 108 applies only to libraries and archives (terms that are not defined) that are either open to the general public or to unaffiliated researchers in the relevant specialized field. Activities covered by the section cannot be undertaken for “any purpose of direct or indirect commercial advantage.” and copies must contain the copyright notice as it appears on the source copy, or if there is no such notice, bear a legend stating that the work may be protected by copyright.

Section 108 includes two provisions for libraries and archives to make reproductions in order to maintain the works in their collections; these provisions apply to all categories of copyrighted works. The first such provision allows a library or archives to reproduce three copies of an unpublished work in its collections for purposes of preservation, security, or deposit for research in another eligible institution. Digital copies made under this provision cannot be made available to the public outside the premises of the library or archives. The second maintenance exception allows the reproduction of three copies of a published work for replacement purposes, but only if the source copy of the work is “damaged, deteriorating, lost, or stolen” or the copy is stored in an obsolete format, and the library or archives cannot locate an unused copy of the work at a fair price after a reasonable effort to do so. The replacement exception contains the same restriction prohibiting distribution of digital copies outside the premises of the library or archives.

Section 108 also contains a set of provisions concerning the reproduction and distribution of materials in an eligible institution’s collections for users, either upon direct request or as part of interlibrary loan. These exceptions do not apply to musical works; pictorial, graphic, or sculptural works (other than illustrations or similar adjuncts to literary works); and most audiovisual works, including motion pictures. Libraries and archives may reproduce and distribute for a user one copy of an article or contribution to a collection, or a small part of a larger work. They may also reproduce and distribute entire or substantial portions of works for users, but only if a reasonable investigation shows that a copy is not otherwise obtainable at a fair price. Additionally, section 108 states that, in making and distributing copies for users, a library or archives may not
engage in “related or concerted reproduction or distribution of multiple copies” of the same material, and that, when making interlibrary loan copies, an institution cannot “do so in such aggregate quantities as to substitute for a subscription to or purchase of such a work.”

In addition to its provisions governing internal maintenance copies and reproduction and distribution of copies for users, section 108 also provides libraries and archives with a safe harbor from liability for the unsupervised use of its on-premises reproducing equipment, provided that they post notices stating that making copies may be subject to copyright law. Another provision gives libraries and archives the ability to reproduce, distribute, display, or perform any work in its last 20 years of copyright protection for preservation, scholarship, or research, provided the work is not being commercially exploited by its owner.

Finally, subsection (f)(4) of section 108 contains two provisions that govern the exceptions’ overall applicability. It first states that nothing in section 108 “in any way affects the right of fair use as provided by section 107.” Subsection (f)(4) also provides that any contractual obligation assumed by a library or archives upon obtaining a work for its collections supersedes the institution’s privileges under section 108.

B. Revision Work to Date

As Congress has reviewed the copyright law in recent years, the Copyright Office has noted consistently that exceptions and limitations are critical to the digital economy and must be calibrated by Congress as carefully and deliberatively as provisions governing exclusive rights or enforcement. Section 108, in particular, has been a long-standing focus of the Copyright Office because, properly updated, it can provide professionals in libraries, archives, and museums with greater legal certainty regarding the permissibility of certain core activities. In 2005, the Copyright Office and the National Digital Information Infrastructure and Preservation Program of the Library of Congress sponsored and administered an independent study group charged with producing a report and set of recommendations on potential improvements to section 108. The study group members included distinguished and experienced librarians, copyright owners, archivists, academics, and other memory institution specialists and copyright lawyers. The “Section 108 Study Group” made note of a number of ways in which digital technologies have impacted copyright law, including (1) opportunities for new revenue sources derived from new distribution methods, (2) increased risks of lost revenue and control from unauthorized copying and distribution, (3) essential changes in the operations of libraries and archives, and (4) changing expectations of users and the uses made possible by new technologies. Over the course of nearly three years, the Study Group engaged in analysis, review, and discussion of the best ways in which to update section 108 to address the digital age.

The Study Group issued its report in March 2008, calling for an extensive revision to update section 108. The report also pointed out several areas where section 108 required amendment but where the members of the Study Group could not agree on a solution. The Study Group unanimously recommended revising section 108 in nine separate areas, plus a general recommendation for re-organizing the section’s provisions. Among the more significant recommendations were:

- Allow museums to be eligible along with libraries and archives.
- Add new eligibility criteria, such as having a public service mission, employing a professional staff, and providing professional services.
- Allow libraries and archives to outsource some of the activities permitted by section 108 to third parties, under certain conditions.
- Replace the three-copy limits in the preservation, security, deposit for research, and replacement provisions with conceptual limits allowing a limited number of copies as reasonably necessary for the given purpose.
- Revise the prohibition on making digital preservation and replacement copies publicly available off-premises, so that it does not apply when the source and the new copy are in physical formats, such as CDs or DVDs.
- Allow specially qualified institutions to preemptively reproduce publicly disseminated works at special risk of loss for preservation purposes only, with limited access to the copies.
- Create a new provision for the capture, reproduction, and limited redistribution of “publicly available online content,” e.g., Web sites and other works freely available on the Internet. Rights-holders would be allowed to opt out of having their content captured or re-distributed.
- Apply the safe harbor from liability for copies made on unsupervised reproduction equipment to user-owned, portable equipment, as well as equipment residing on the library’s or archives’ premises.

The Study Group also made note of several areas of section 108 that all members agreed required revision, but could not come to a unanimous decision on what the revision should look like. The issues identified by the Study Group in this section of the Report concerned copies made at the request of users, specifically:

- The need to replace the single-copy limit with a “flexible standard more appropriate to the nature of digital materials.”
- Explicitly permitting electronic delivery of copies for users under certain conditions.
- Allowing copies for users to be made of musical works; pictorial, graphic, or sculptural works; and motion pictures and other audiovisual materials.


[20] Id. at 108(g)(1).
[21] Id. at 108(g)(2).
[22] Initial guidance as to the practical limits indicated by this phrase was provided by the National Commission on New Technological Uses of Copyrighted Works (CONTU), which in 1976 formulated guidelines for how many copies of a particular article or periodical could be made for interlibrary loan purposes without risking market substitution. H.R. Rep. No. 94–1733, at 72–73 (1976) (Conf. Rep.), as reprinted in 1976 U.S.C.C.A.N. 5809, 5813–14. Congress, while incorporating the CONTU guidelines into the Conference Committee Report to the Copyright Act of 1976, cautioned that they would require “continuous reevaluation and adjustment.” Id. at 71.
[24] Id. at 108(h).
[25] Id. at 108(f)(4).
[26] Id. at 108(g)(1).
[28] Id. at 108(g)(1).
[29] Id. at 108(h).
[30] Id. at 108(f)(4).
[31] Id. at 108(f)(4).
[32] Id. at 108(h).
[33] Id. at 113–124.
[34] Id. at 95–99.
[35] Id. at 91–92.
[36] Id. at 95–112. Additionally, a third section of the Report discussed issues that some, but not all, of the Study Group members thought merited statutory revision, including whether to allow certain exceptions to override contrary contractual agreements. Id. at 113–124.
[37] Id. at 98–101.
[38] Id. at 101–103.
works, under conditions that limit the risk of market substitution. After the issuance of the Study Group’s report, the Copyright Office, led by the then-Register of Copyrights, comprehensively reviewed the underlying analyses of the Study Group and examined a number of questions left unresolved due to lack of consensus amongst disparate Study Group members. On April 5, 2012, the current Register and senior staff met with Study Group members to review the 2008 report and discuss subsequent developments. Most Study Group members agreed that updating section 108 remained a worthwhile goal, and some suggested that the Report did not go far enough, particularly in recommending changes to the provisions regarding copies for users. Additionally, several members described an increasing practice of librarians and archivists more frequently relying upon fair use as the legal basis for their activities, making section 108 more urgent or less urgent as a revision matter, depending on one’s perspective.

In February 2013, the Copyright Office co-sponsored with Columbia Law School a public conference on section 108, entitled “Copyright Exceptions for Libraries in the Digital Age: Section 108 Reform.” The all-day conference served as a valuable and comprehensive adjunct to the Study Group Report. Among other issues, it addressed such topics as the current landscape of similar exceptions in the United States and internationally, the recommendations of the Study Group, what changes should be made to section 108 in terms of its scope, and whether and how mass digitization by libraries and archives should be permitted. More recently, section 108, along with the issues of orphan works and mass digitization, was the subject of a hearing on “Preservation and Reuse of Copyrighted Works” held by the House Subcommittee on Courts, Intellectual Property, and the Internet on April 2, 2014. At the hearing, there was disagreement among the six witnesses over whether or not section 108 reform is advisable as a legal matter or possible as a practical matter. One librarian-member of the Section 108 Study Group told Congress that the existing framework does not require amendment and anticipated great difficulty in translating the Study Group’s (limited) recommendations into effective legislation. However, the co-chairs of the Section 108 Study Group, the former general counsel to a book publisher, advocated for revisions, emphasizing the clarity that a “workable, up-to-date and balanced” section 108 could bring to both libraries and copyright owners in “specific situations.” Another witness, an audiovisual conservation expert at the Library of Congress, testified that it is important to “[m]odernize Section 108 so that the Library of Congress can fulfill its mission to preserve audiovisual and other materials,” and recommended specific changes to the preservation, replacement, copies for users, and other provisions.

Most recently, on April 29, 2015, testimony to the House Judiciary Committee regarding the universe of copyright policy issues, the Register of Copyrights stated that section 108 is among the matters ready for Congressional consideration. Based on the entirety of the record to date,” the Register explained, the Office has concluded that Section 108 must be completely overhauled. One enduring complaint is that it is difficult to understand and needlessly convoluted in its current state. The Office agrees that the exceptions play an important role in facilitating library services and serving the social objective of copyright law.

Some countries have also recently considered updating and amending their statutory library exceptions to address the digital landscape. For example, Canada in 2012 amended its copyright statute to permit libraries, archives, and museums to provide digital copies of certain works to persons requesting the copies through another institution. Similarly, the European Union has stated that in 2016 it would examine legislative proposals that would allow cultural heritage institutions to use digital technologies for preservation.

For many years, WIPO has considered a treaty proposal on copyright limitations and exceptions for libraries and archives that would mandate a right of preservation for library and archival materials, enabling these institutions to reproduce for preservation purposes as necessary. The Office agrees that the provisions should be comprehensive and should be related logically to one another, and we are currently preparing a discussion draft. This draft will also introduce several substantive changes, in part based upon the recommendations of the Study Group’s 2008 report. It will address museums, preservation exceptions and the importance of “web harvesting” activities.

C. The International Perspective

Many other countries have recognized the global significance of copying and preservation exceptions for libraries and archives and are also reviewing their relevant exceptions at this time. As of June 2015, 156 World Intellectual Property Organization (WIPO) member states had at least one statutory library exception, addressing issues such as making copies of works for readers, researchers, and other library users as well as copies for preservation. The most recent WIPO study on copyright limitations and exceptions for libraries and archives observed that “exceptions for libraries and archives are fundamental to the structure of copyright law throughout the world, and that the exceptions play an important role in facilitating library services and preserving the social objective of copyright.”

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many copies of works that are needed in accordance with best professional practices.\textsuperscript{57} Advocating a more “soft law” approach, the United States government instead has encouraged member states to adopt national statutory library exceptions that are consistent with their current international obligations\textsuperscript{58} and that further the broad objectives of preservation and public service.\textsuperscript{59}

\section*{II. Revision of Section 108—Current Discussion Draft Proposals}

The Copyright Office notes that, since the enactment of the Copyright Act of 1976, the views of the library and archives community regarding section 108 have become less uniform and more complicated, particularly as courts have supported newer applications of the fair use doctrine vis-à-vis a number of digitization and access activities.

Indeed, fair use clearly supports a wider range of reproduction activities than it did when section 108 was first codified.\textsuperscript{60} The evolving nature of the law is instructive and important. Among other things, it underscores the advisability of allowing section 108 and section 107 to co-exist, while ensuring that each provision is positioned for the future, free from the analog restrictions of a bygone era.

As noted by the Study Group, updating section 108 would provide...
Eligibility
1. The attributes that an institution should possess in order to be eligible for the section 108 exceptions, and how to prescribe and/or regulate them.

Rights Affected
2. Limiting section 108 to reproduction and distribution activities, or extending it to permit public performance and display as well.

Copies for Preservation, Security, Deposit in Another Institution, and Replacement
3. Restricting the number of preservation and security copies of a given work, either with a specific numerical limit, as with the current three-copy rule, or with a conceptual limit, such as the amount reasonably necessary for each permitted purpose.

4. The level of public access that a receiving institution can provide with respect to copies of both publicly disseminated and non-publicly disseminated works deposited with it for research purposes.

Copies for Users
5. Conditioning the unambiguous allowance of direct digital distribution of copies of portions of a work or entire works to requesting users, and whether any such conditions should be statutory or arrived at through a rulemaking process.

Preservation of Internet Content
6. Conditioning the distribution and making available of publicly available internet content captured and reproduced by an eligible institution.

Relation to Contractual Obligations
7. How privileging some of the section 108 exceptions over conflicting contractual terms would affect business relationships between rights-holders and libraries, archives, and museums.

Outsourcing
8. What activities (e.g., digitization, preservation, interlibrary loan) to allow to be outsourced to third-party contractors, and the conditioning of this outsourcing.

Other
9. Whether the conditions to any of the section 108 exceptions would be better as regulations that are the product of notice-and-comment rulemaking or as statutory text.

10. Whether and how the use of technical protection measures by eligible institutions should apply to section 108 activities.

National Aeronautics and Space Administration

Notice of Intent To Grant an Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(l)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in U.S. Non-Provisional Patent Application, Serial No. 13/573920, titled “System and Method for Air Launch from a Towed Aircraft,” NASA Case No. DRC–012–011, and Provisional Patent Application, Serial No. 15/046789, titled “System and Method for Air Launch from a Towed Aircraft” NASA Case No. DRC–012–011B and any issued patents or continuations in part resulting therefrom, to Kelly Space & Technology Inc., having its principal place of business in San Bernardino, California. Certain patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, NASA Management Office, Jet Propulsion Laboratory, 4800 Oak Grove Drive, M/S 180–800C, Pasadena, CA 91109, (818) 854–7770 (phone), 818–393–2607 (fax). Information about other NASA inventions available for licensing can be found online at http://technology.nasa.gov.

Mark P. Dvorscak, Agency Counsel for Intellectual Property.

FOR FURTHER INFORMATION CONTACT: Kate Gastner by phone at 202–741–5770, by email at kkgastner@NASA.gov.

National Archives and Records Administration

Office of Government Information Services (OGIS)

Freedom of Information Act Advisory Committee

AGENCY: National Archives and Records Administration.


SUMMARY: The National Archives and Records Administration (NARA) is renewing the charter for the Freedom of Information Act (FOIA) Advisory Committee, a Federal advisory committee we established to study the current FOIA landscape across the executive branch and to advise NARA’s Office of Government Information Services, the Government’s FOIA ombudsman, on improvements to the FOIA.

DATES: We filed the renewed charter on May 20, 2016. It remains in effect for two years from that date, unless otherwise extended.

ADDRESSES: You may access the charter and other information about the FOIA Advisory Committee online at http://www.ogis.archives.gov/foia-advisory-committee.htm.

FOR FURTHER INFORMATION CONTACT: Kate Gastner by phone at 202–741–5770, by email at kkgastner@NASA.gov.