SUPPLEMENTARY INFORMATION:

DATES:
Effective February 16, 2018.

SUMMARY:

The Office solicited and received five comments, only two of which were substantive. Having reviewed and carefully considered the comments, the Copyright Office now issues a final rule identical to the proposed rule. While the Office does not believe the comments require any alteration to the rule itself, it does believe that some clarification would be helpful to both the commentators and copyright owners, and is provided here.

The Association of American Publishers (“AAP”) filed a comment regarding the proposed rule as it relates to deposit regulations. While the comment appreciates that the rule “could reduce the financial burdens of publishers with respect to deposit regulations,” it nevertheless does not support the rule because it takes issue with the Library’s disposition of surplus works. AAP Comments at 2.

AAP appears to believe that there is no authority in the Copyright Act for the Library’s disposition of surplus works and that the only authority comes from the Library’s own regulations. AAP Comments at 6–7. But as discussed in the NPRM, section 704 of the Copyright Act explicitly states that “[i]n the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library.” 17 U.S.C. 704(b) (emphasis added). Furthermore, AAP’s concern about the Library’s disposition of surplus books would be diminished by adoption of the rule, which limits the volume of works (and thereby any surplus) coming in to the Library in the first place. AAP concedes that the rule should have that result. AAP Comments at 2.

As part of these changes, the rule also clarifies the deposit requirements for musical compositions published both in print and phonorecord formats, requiring the submission of the print version for purposes of copyright registration. If, however, the musical composition is published only as a phonorecord, the applicant should submit a copy of the phonorecord.

To make these changes, the Office and copyright owners alike, ensuring that the Office has an adequate registration record and continuing to make these works available to the Library of Congress when needed for use in its collections or other disposition.

The NPRM explained in detail the rationale for the rule changes. The Office solicited and received five comments, only two of which were substantive. Having reviewed and carefully considered the comments, the Copyright Office now issues a final rule identical to the proposed rule. While the Office does not believe the comments require any alteration to the rule itself, it does believe that some clarification would be helpful to both the commenters and copyright owners, and is provided here.

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All of these changes will improve the efficiency of registration and mandatory deposit for both the Office and copyright owners alike, ensuring that the Office has an adequate registration record and continuing to make these works available to the Library of Congress when needed for use in its collections or other disposition.

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Authority: 17 U.S.C. 408(f), 702.

2. Amend § 202.19 as follows:

a. Add paragraph (b)(5).

b. In paragraph (d)(2)(v), remove the words “in copies only.” and add in their place “solely in copies,” and remove the words “if the only publication of copies in the United States took place by rental, lease, or lending.”.

c. Add paragraph (d)(2)(ix).

The additions read as follows:

§ 202.19 Deposit of published copies or phonorecords for the Library of Congress.

(b) * * *

(5) The term literary monograph means a literary work published in one volume or a finite number of volumes. This category does not include serials, nor does it include legal publications that are published in one volume or a finite number of volumes that contain legislative enactments, judicial decisions, or other edicts of government.

(d) * * *

(2) * * *

(ix) In the case of published literary monographs, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section, unless the Copyright Office issues a demand for a second copy pursuant to 17 U.S.C. 407(d).

3. Amend § 202.20 as follows:

a. Revise paragraph (b)(3).

b. Remove paragraph (b)(4).

c. Redesignate paragraph (b)(5) as paragraph (b)(4).

d. In paragraphs (c)(2)(i)(A) through (D), remove the semicolon and add a period in its place at the end of each sentence.

e. Revise paragraph (c)(2)(i)(E).

f. In paragraphs (c)(2)(i)(F) through (I), remove the semicolon and add a period in its place at the end of each sentence.

g. In paragraph (c)(2)(i)(I), remove “;” and “and” and add a period in its place at the end of the sentence.

h. Add paragraph (c)(2)(i)(L).

i. In paragraphs (c)(2)(viii)(A) through (D), remove the semicolon and add a period in its place at the end of the sentence.

j. In paragraphs (c)(2)(viii)(C) and (D), remove “an audiocassette or other” and add in its place “a”.

The revisions and additions read as follows:

§ 202.20 Deposit of copies and phonorecords for copyright registration.

(b) * * *

(3) The terms secure test and literary monograph have the meanings set forth in §§ 202.13(b) and 202.19(b)(5).

(c) * * *

(i) * * *

(E) Musical compositions published solely in copies or in both copies and phonorecords, provided that one complete copy (rather than a phonorecord) is deposited.

(L) Published literary monographs.


Karyn Temple Claggett,
Acting Register of Copyrights and Director of the U.S. Copyright Office.

Carla D. Hayden,
Librarian of Congress.

[FR Doc. 2018–00701 Filed 1–16–18; 8:45 am]

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