

Order 11612, as amended, to advise the Secretary of Labor on all matters relating to the occupational safety and health of federal employees. This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the federal workforce and how to encourage each federal Executive Branch department and agency to establish and maintain effective occupational safety and health programs.

OSHA transcribes and prepares detailed minutes of FACOSH meetings. The Agency puts transcripts, minutes, subcommittee reports, and other materials presented at the meeting in the public record of the FACOSH meeting, which is posted at <http://www.regulations.gov>.

### Public Participation, Submissions, and Access to Public Record

**FACOSH meetings:** FACOSH meetings are open to the public. Individuals attending meetings at the U.S. Department of Labor must enter the building at the Visitors' Entrance, 3rd and C Streets NW., and pass through building security. Attendees must have valid government-issued photo identification to enter the building. For additional information about building security measures for attending the FACOSH meeting, please contact Ms. Chatmon (see **ADDRESSES** section).

Please submit your request for special accommodations to attend the FACOSH meeting to Ms. Chatmon.

**Submission of requests to speak and speaker presentations.** You may submit a request to speak to FACOSH about the topics of the meeting and speaker presentations by one of the methods listed in the **ADDRESSES** section. Your request must include:

- The amount of time you request to speak;
- The interest you represent (e.g., organization name), if any; and,
- A brief outline of your presentation.

PowerPoint speaker presentations and other electronic materials must be compatible with PowerPoint 2010 and other Microsoft Office 2010 formats.

The FACOSH Chair may grant requests to address FACOSH at his discretion, and as time and circumstances permit.

**Submission of written comments.** You also may submit written comments, including data and other information, using any of the methods listed in the **ADDRESSES** section. You may supplement electronic submissions by uploading documents electronically. If you wish to submit hard copies of supplementary documents instead, you must submit them to the OSHA Docket

Office using the instructions in the **ADDRESSES** section. The additional materials must clearly identify your electronic submission by name, date, and docket number.

Because of security-related procedures, submitting comments, requests to speak, and speaker presentations by regular mail may cause a significant delay in their receipt. For information about security procedures concerning submissions by hand, express delivery, and messenger/courier service, please contact the OSHA Docket Office (see **ADDRESSES** section). OSHA will provide copies of your submissions to FACOSH members prior to the meeting.

**Access to submissions and public record.** OSHA places comments, requests to speak, and speaker presentations, including any personal information you provide, in the FACOSH public docket without change and those documents may be available online at <http://www.regulations.gov>. Therefore, OSHA cautions interested parties about submitting certain personal information, such as Social Security numbers and birthdates.

OSHA also puts meeting transcripts, minutes, work group reports, and documents presented at the FACOSH meeting in the public record of the FACOSH meeting.

To read or download documents in the public record, go to Docket No. OSHA-2012-0006, at <http://www.regulations.gov>. Although all meeting documents are listed in the <http://www.regulations.gov> index, some documents (e.g., copyrighted material) are not publicly available to read or download through that Web page. All meeting documents, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the <http://www.regulations.gov> to make submissions and to access the public record of the FACOSH meeting is available at that Web page. Please contact the OSHA Docket Office for information about materials not available through that Web page and for assistance for making submissions and obtaining documents in the public record.

Electronic copies of this **Federal Register** notice are available at <http://www.regulations.gov>. This notice, as well as news releases and other relevant information about FACOSH, is available at OSHA's Web page at <http://www.osha.gov>.

### Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), 5 U.S.C. 7902, the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), 41 CFR part 102-3, section 1-5 of Executive Order 12196 (45 CFR 12729 (7/27/1980)), and Secretary of Labor's Order No. 1-2012 (77 FR 3912 (1/25/2012)).

Signed at Washington, DC, on September 14, 2012.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2012-23106 Filed 9-18-12; 8:45 am]

**BILLING CODE 4510-26-P**

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### LIBRARY OF CONGRESS

#### Copyright Office

[Docket No. 2012-10]

#### Resale Royalty Right

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

**ACTION:** Notice of Inquiry.

**SUMMARY:** The U.S. Copyright Office is undertaking an inquiry at the request of Congress to review how current copyright law affects and supports visual artists; and how a federal resale royalty right for visual artists would affect current and future practices of groups or individuals involved in the creation, licensing, sale, exhibition, dissemination, and preservation of works of visual art. The Office thus seeks comments from the public on the means by which visual artists exploit their works under existing law as well as the issues and obstacles that may be encountered when considering a federal resale royalty right in the United States.

**DATES:** Comments must be received no later than 5 p.m. Eastern Daylight Time (EDT) on November 5, 2012.

**ADDRESSES:** To submit comments, please visit <http://www.copyright.gov/docs/resaleroyalty>. The Web site interface requires submitters to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browser button. To meet accessibility standards, submitters must upload comments in a single file not to exceed six megabytes (MB) in one of the following formats: The Adobe Portable

Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The form and face of the comments must include both the name of the submitter and organization. The Office will post all comments publicly on the Office's Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202-707-8380 for special instructions.

**FOR FURTHER INFORMATION CONTACT:**

Jason Okai, Counsel, Office of Policy and International Affairs, by telephone at 202-707-9444 or by electronic mail at [jokai@loc.gov](mailto:jokai@loc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

An artist resale royalty, or *droit de suite* as it is often called in Europe, provides artists with an opportunity to benefit from the increased value of their works over time by granting them a percentage of the proceeds from the resale of their original works of art. The royalty originated in France in the 1920s and is in general practice throughout Europe, but is not part of current United States copyright law.<sup>1</sup> Under the Copyright Act (the "Act"), 17 U.S.C. 101 *et seq.*, artists, like other authors, are provided a bundle of exclusive rights, including rights to reproduce, distribute and create adaptations of the works. Federal copyright law, however, does not generally grant artists or authors rights to control the subsequent use of the original work.<sup>2</sup> Rather, the first sale doctrine, codified in 17 U.S.C. 109, generally permits the lawful owner of a copyrighted work to display, sell or dispose of the work without the authorization of the creator under most circumstances.

For many authors of works such as books, musical works and sound recordings, the copyright system provides substantial economic benefits and incentives through subsequent uses or performances of those works by way of licensing or contractual arrangements. For example, an author may sell rights in his or her novel to a

publisher, or sell the right to create a screenplay to a writer, or sell the right to create a motion picture from that screenplay. At each point in the life cycle of that novel, numerous opportunities arise for the author to earn income from the original novel without having to write another book or restrict the number of books available for purchase in the marketplace. Indeed, a novelist and his publisher may offer millions of copies of the same book to buyers, a filmmaker may distribute millions of DVDs of his film, and a songwriter may authorize millions of downloads. In each case, every purchaser receives the same work and for the same value as the original.

By contrast, in the case of certain visual artworks, there can only be one sale at a time, and only the initial sale will inure to the benefit of the actual creator. A sculptor or painter may spend months or years creating one work of art and when that work is completed it is a unique and singular representation of the artist's intent. Unlike books, DVDs or songs, the value of the work is based on its originality and scarcity. This means that over time, it may be a collector or other downstream entity that will derive the most financial benefit.

The Office recognizes that buyers of artworks, including collectors, galleries and auction houses, frequently purchase artworks as investments. These persons may act as important catalysts over time, helping to increase the value of certain artworks through exhibitions and additional sales, or by supporting the careers of artists through payment or promotion. The question thus becomes one of perceived fairness under the law. Should these agents and investors benefit exclusively, or should they be compelled to provide some additional compensation to the artists who made the buyers' profits possible? Indeed, California purportedly developed its state law on resale royalties in part as a result of the indignation felt by many within the artistic community when Robert Rauschenberg's 1958 painting "Thaw," which was originally sold for \$900, was resold at auction fifteen years later for \$85,000 without compensation to the artist.<sup>3</sup> According to some sources, certain fine art can appreciate by more than 10% in value per year.<sup>4</sup>

To be clear, any artist may by contract attempt to negotiate a partial interest in his work with a buyer, thereby reserving for him or herself a financial interest in its future value. However, this is by no means a common practice for transactions of fine art, even for accomplished artists, and it seems unlikely for one who is just starting out. There are also some accommodations available to visual artists in the broader marketplace. For example, some artists may exploit their works in other ways, such as through reproductions or the creation of derivative works. For some, this may be lucrative; however, for others the very nature of their visual art may limit the ability to create such derivative markets. In general, although visual art may be reproduced or adapted in the form of prints, postcards, miniature models of sculptures or even refrigerator magnets, the income realized from the sales of these items is not likely to approach the income that the original artwork will bring if it increases in value and is sold and resold at auction, in private galleries or through private sales.

*A. Previous Inquiry*

In 1991, Congress requested the Copyright Office to conduct a study on the feasibility of legislation that would require purchasers of works of art, subsequent to the initial sale of the work, to pay the artist or the artist's heirs a percentage of the sale price. Published in December 1992, the Copyright Office report concluded that there was insufficient economic and copyright policy justification for enacting resale royalty right or *droit de suite* legislation in the United States.<sup>5</sup> The Office expressed concern that implementing a resale royalty right might be harmful to visual artists who lack a viable resale market because primary market prices might decline as a result of factoring in the future royalty. The Office further explained that imposing a federal resale royalty on sales transactions may conflict with the traditional United States concept of free alienability of property. The Office proposed alternatives to a resale royalty right, including compulsory licenses, broader display rights, rental rights and federal grants for public works of art. The Office also identified eight areas to be considered if legislation were to be proposed: Oversight, types of sales, threshold amount, term, foreign authors,

*how-to-outsmart-the-billionaires-wholl-bid-80-million-for-the-scream/*.

<sup>5</sup> See United States Copyright Office, *Droit De Suite: The Artist's Resale Royalty 2* (1992) ("Report"), available at [http://www.copyright.gov/history/droit\\_de\\_suite.pdf](http://www.copyright.gov/history/droit_de_suite.pdf).

<sup>1</sup> Resale royalty rights are optional under applicable international treaties. See Berne Convention for the Protection of Literary and Artistic Works, art. 14*ter*, Jul. 24, 1971, 25 U.S.T. 1341, 8282 U.N.T.S. 221 (as amended Sep. 28, 1979).

<sup>2</sup> Visual artists are granted very limited rights to prevent certain modifications to their works under the Visual Artists Rights Act (VARA), 17 U.S.C. 106A. VARA does not provide additional economic benefits.

<sup>3</sup> See Patricia Cohen, *Artists File Lawsuits Seeking Royalties*, New York Times, Nov. 1, 2011, available at <http://www.nytimes.com/2011/11/02/arts/design/artists-file-suit-against-sothebys-christies-and-ebay.html?pagewanted=all>.

<sup>4</sup> See Joshua Rogers, *How to Outsmart the Billionaires Who'll Bid \$80 Million for "The Scream"*, Forbes, Apr. 4, 2012, available at <http://www.forbes.com/sites/joshuarogers/2012/04/04/>

alienability, types of works and retroactivity. Congress did not enact legislation creating a resale royalty right at the federal level and there has been no formal congressional deliberation on this topic since the 1992 report. In its report, the Copyright Office also suggested that Congress may wish to review the issue if the European Community extended royalty rights to all of its Member States.

### B. International Developments

Since the Office published its study in 1992, the legal landscape in foreign jurisdictions with respect to resale royalty treatment has changed. In 1992, thirty-six countries had resale royalty legislation; today, that number has increased to more than sixty.<sup>6</sup> In 2001, the European Union adopted a Directive generally requiring Member States to implement harmonized resale royalty legislation by 2006.<sup>7</sup> The Directive requires Member States to establish a royalty for all resales involving an art market professional, including auctions, private dealers and galleries. Member States have some flexibility to determine what threshold resale price would trigger the royalty below €3,000 (euros), and to provide for compulsory or optional collective management of the royalty. The Directive caps the royalty at €12,500, regardless of the resale price. As a result of the Directive, *droit de suite* is now a component of national laws across the European community. The United Kingdom, which is one of the largest art markets in the world, implemented its resale royalty legislation in 2006. Artists also receive resale royalties in many countries outside of the European Union, including Algeria, Australia, Bolivia, Brazil, Bulgaria, Burkina Faso, Chile, Congo, Columbia, Costa Rica, Croatia, Ecuador, Guatemala, Guinea, Honduras, Iraq, Ivory Coast, Laos, Madagascar, Mali, Mexico, Monaco, Morocco, Nicaragua, Paragua, Panama, Peru, Philippines, Romania, Russian Federation, Senegal, Serbia and Montenegro, Tunisia, Turkey, Uruguay and Venezuela.<sup>8</sup>

<sup>6</sup> See *id.* at 8; see also The Artist's Resale Right Regulations, 2006 S.I. 346 (U.K.), at art. 2, schedule 2; *Liste de Pays Dont le Ressortissants Beneficiant du Droit de Suite a Juin 2007* ("List of Countries") [List of Countries whose Citizens Benefit from the Resale Royalty Right as of June 2007], Societe des Auteurs dans les Arts Graphiques et Plastiques, available at [http://www.adagp.fr/ENG/Liste\\_pays\\_droit\\_de\\_suite.pdf](http://www.adagp.fr/ENG/Liste_pays_droit_de_suite.pdf).

<sup>7</sup> Council Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the Resale for the Benefit of the Author of an Original Work of Art, art 1, 2001 O.J. (L 272) 32–36.

<sup>8</sup> See *Liste de Pays Dont le Ressortissants Beneficiant du Droit de Suite a Juin 2007* [List of

### C. State Law

To date, the only resale royalty legislation in the United States has been at the state level in California, where it has operated with mixed success. The California Resale Royalty Act was enacted in 1976 and imposes several conditions prior to payment of the royalty: The artist must be a U.S. citizen or a California resident of at least two years; the seller must reside in California or the sale executed in California; the artwork must be "fine art," (*i.e.*, an original sculpture, painting, drawing, or work in glass); and the work must be sold for more money than was paid for it and for at least \$1,000.<sup>9</sup> The seller or seller's agent is required to pay the 5% royalty directly to the artist or the artist agent. If the latter cannot be found, the seller or seller's agent must pay the royalty to the California Arts Council, which continues the search for the beneficiary artist. The California Arts Council does not charge an administrative fee for this service.

Notably, after thirty-five years on the books, a federal district in California recently declared the California Resale Royalty Act unconstitutional under the Commerce Clause. The court concluded that the state statute impinged on the federal government's authority to control commerce among the states because it regulated sales occurring wholly outside of California.<sup>10</sup> An appeal is pending in the United States Court of Appeals for the Ninth Circuit.

### D. Proposed Legislation

On December 15, 2011, Senator Kohl of Wisconsin and Representative Nadler of New York introduced bills in the 112th Congress titled, *Equity for Visual Artists Act of 2011* (EVAA), S.2000 and H.R. 3688 respectively. The EVAA requires a resale royalty right, under certain circumstances, to be collected from the seller. The proposed royalty would be triggered when a work of visual art is sold at auction for at least \$10,000 by someone other than the authoring artist. Following the sale, the entity receiving the proceeds pays a royalty of 7% to a qualifying visual artists' collecting society. The collecting society is required to distribute 50% of the net royalty to the artists or successor as copyright owner and place the other

Countries whose Citizens Benefit from the Resale Royalty Right as of June 2007], Societe des Auteurs dans les Arts Graphiques et Plastiques, available at [http://www.adagp.fr/ENG/Liste\\_pays\\_droit\\_de\\_suite.pdf](http://www.adagp.fr/ENG/Liste_pays_droit_de_suite.pdf).

<sup>9</sup> CAL. CIV. CODE § 986 (West 2012).

<sup>10</sup> See *Estate of Graham v. Sotheby's Inc.*, 11–CV–08604, 2012 WL 1765445 at \*1–2 (C.D. Cal. May 17, 2012).

50% of net royalty into an escrow account to support U.S. nonprofit museums in their future purchases of visual art created by living artists domiciled in the United States. Failure to remit the royalty to the collecting society is copyright infringement subject to statutory damages. The EVAA also directs the Register of Copyrights to issue regulations governing the designation and oversight of visual artists' collecting societies.

In a letter dated May 17, 2012, Senator Kohl and Representative Nadler requested that the Copyright Office "assess how existing law affects and supports visual artists, and how a federal resale royalty provision would affect copyright law, visual artists and those involved in the sale of art work."

The Office therefore seeks comments from interested parties on how visual artists exploit their works under existing law, including any limitations due to the nature of visual art, and the effect, if any, a resale royalty right would have on the promotion, dissemination and sale of works of visual art.

## II. Discussion

There are a variety of factors to consider when examining how visual art is treated under the Copyright Act and whether a federal resale royalty right would foster the goals of the copyright system. Among the issues are:

**Current Copyright Law Implications:** The first sale doctrine (17 U.S.C. 109) is a fundamental tenet of U.S. law. It helps to maintain the copyright system's balance between incentives for authors and the public's interest in widespread dissemination of copyrighted works. How a federal resale royalty right would affect the first sale doctrine is therefore of paramount interest to the Office, as is the interaction with any other exceptions and limitations that support the dissemination of works of art to the public.

**Promoting Production of Creative Works:** Copyright law furthers the creation and/or distribution of new works and provides authors (and those who invest in the works of authors) with certain incentives and protections under the law. Therefore, whether the adoption of a federal resale royalty regime would further incentivize and protect the authors of certain visual artworks is also of paramount interest to the Office.

**Fostering the Art Marketplace:** The effect of a resale royalty on current or future markets is a related, important question, though that is not to say that the law must or should protect all existing business models. Is it possible, however, that a resale royalty right

might add to the costs of those who buy and invest in artworks and, if so, are such costs acceptable from a policy perspective? In this regard, the art market should be broadly defined, including emerging artists, heirs, investors and collectors.

*Scope and Applicability of a Royalty:* A threshold question is what categories of works should be covered under a resale royalty right. For example, the California resale royalty provision governs works of "fine art," while the European Directive covers all "original works of art." The EVAA would cover works of "visual art" as defined in Section 101 of the U.S. Copyright Act. The Office is aware that some artists today work in series, producing limited numbers of identical works and some works that may have been sold as unique creations in the past are now sold in copies including, for example, so-called Internet Art. Moreover, some artists, though certainly not most, are moving from a business model where works are sold to one where access is licensed. Such issues may inform the appropriate scope of fine art, original art or the like.

*Contractual Considerations:* For any number of reasons, an artist or his or her heirs may not wish to participate in the resale royalty right process through a collecting society, and may wish instead to pursue payment of a royalty directly from the seller; or an artist or his or her heirs may wish to waive or contractually discharge his or her right to receive the royalty. For example, an artist may wish to waive the right to receive the royalty in return for a higher initial sale price rather than wait the years or decades for a work to sell at auction, or an artist may wish to contract privately with the initial seller to provide for a payment of a percentage of any future sales, although the enforceability of this type of contractual term has been questioned. In each instance, however, it is the artist setting their individual terms of sale and determining individual contractual obligations with each initial seller, not a statute. Alternatively, an artist may prefer to receive a lesser royalty in return for a third party to administer and distribute payments due. Perspective on the issue of how to address the contractual issues associated with a resale royalty right, including whether the right should be transferable or waivable, is helpful to the Office in exploring the practical effect of a resale royalty.

*Types of Transactions:* Art is bought and sold through myriad channels and venues. Many artists are affiliated with galleries that buy, consign, sell and even

resell works to private or corporate clients. Other transactions occur in well publicized auctions, private auctions, online or even through direct internet sales. The laws in California, United Kingdom, France and Australia appear to cover a broad range of transactions involving art market professionals, including those through online sales, private galleries and auctions. Given the variety of ways in which works of art are sold or transferred in the U.S. and across borders, a significant factor for the Office to consider is to what extent a resale royalty should apply or be managed in the numerous commercial channels, or whether the resale royalty should apply to some types of transactions and not others.

*Duration of Term:* One of the rationales for having a copyright term extending post mortem of the author is to provide income and benefits to the heirs of the artist or author. This rationale may not apply in the same way to a federal resale royalty. Many countries, however, simply follow their general copyright term (such as life of the author plus seventy years), while the California state law uses a term of life of the author plus twenty years. Thus, consideration should be given to the appropriate duration of such a right and how the specific duration or term of a right would support the goals of the copyright system.

*Threshold Values:* Not every artist's works sell for tens of thousands or even millions of dollars. Many works may be resold by collectors for hundreds or thousands of dollars at local auctions, charity events, or perhaps even some larger sales events. Any such resulting royalty from these smaller payments may be outweighed by the costs incurred by making the payment. Also, if an artwork is sold at a charity event, the proceeds are not realized by the seller, but by the charity. Under a traditional rubric, it appears that the charity would be responsible for payment of the royalty, which lessens the amount it may redirect toward its charitable efforts. The Office would find it helpful to explore the issue of whether a minimum amount of money realized from a sale must be attained in order for the requirement of a royalty payment to be made, and if so, what standards would be appropriate. For example, the California resale royalty applies to sales of \$1,000 or more, while the European directive sets a maximum threshold of €3,000. The EVAA would impose a \$10,000 threshold on transactions subject to the royalty. It would be helpful to receive information about these varying approaches and

how the different thresholds may support the goals behind the royalty.

*Payment and Enforcement:* It is possible that under a resale royalty scheme, the artist and the subsequent seller may have no contractual relationship and therefore the only obligation on the payer of the royalty would likely be statutory. Therefore, any statute would likely include provisions to enforce the payment of the royalty and remedies to both the artist and the collective management organization should such an organization be utilized. One may also envision a situation in which the artists or his or her heirs are unable to be located. The seller may not know how or have the means to locate the artist or heirs, and may be under obligation to pay the royalty indefinitely.

*Calculating a Royalty:* The basis for calculating a resale royalty could be set in different ways, for example, based on the present sale price of the art work, or its appreciated value (*i.e.*, the difference between the initial sale price and present sale price). Each formula for calculating a royalty rate could have different consequences for the artist and seller and would need to be considered as part of the royalty mechanisms in place.

*Royalty Rate:* The amount of the royalty could affect the market and artists in different ways and should be assessed, including reviewing the experience of other jurisdictions. The EVAA would set a royalty rate of 7%, while California and Australia set a royalty of 5%. The European Directive adopts a sliding scale based on the amount of the transaction, from 5% for transactions involving sales of €50,000 to a royalty of only 0.25% for transactions over €500,000. The European Directive also caps the maximum royalty at €12,500. The Office seeks information about what factors should be considered in setting an appropriate royalty rate and how the royalty rate might affect artists and the art market.

*Administration of a Royalty:* Additionally, if the royalty payments are collectively managed, administrative costs born by the collecting society are usually deducted from the final payment to the artist rather than added to the cost of the royalty paid by the seller. The final amount paid to the artist or his or her heirs will undoubtedly be less than the amount collected and may not be fully known until payment is made. In addition, a certain level of transparency in such a collecting society would be required in order to provide the artists and his or her heirs with a sufficiently clear

accounting of payments in relation to the administrative costs associated with operating as the collecting society. It would be helpful to understand whether collective management of royalty payments should be proposed, and if so, what type of entity should be authorized (e.g., government or private) and what standards should apply.

*Experience in other Jurisdictions:* As noted above, a resale royalty currently applies under state law in California, as well as in many European and Latin American countries. These jurisdictions have taken different approaches to the issues identified above (i.e., transactions covered, thresholds, royalty rates and administration). It would be helpful for the Copyright Office to receive information on the practical experience of those jurisdictions, any obstacles that may have been encountered, and data on the effect of the right on those markets.

*Changes Since the Last Report:* The Copyright Office last reviewed the resale royalty in 1992. It is therefore interested in any information addressing whether there have been significant policy or economic changes that should be considered when assessing the current feasibility of a resale royalty.

*Alternatives to a Resale Royalty:* As the Copyright Office acknowledged in its 1992 report, there may be alternatives to a resale royalty that would further the goals of promoting creativity and the public dissemination of visual art.

#### IV. Subject of Inquiry and Conclusion

The Office hereby seeks comment from the public on factual and policy matters addressed above, including the potential effect of a resale royalty on visual artists, current copyright law and practical implications for commerce. If there are any pertinent issues not discussed above, the Office encourages interested parties to raise those matters in their comments. The Office may also publish a further Notice of Inquiry posing specific questions and possibly exploring additional alternatives following the receipt of comments in response to this Notice.

Dated: September 13, 2012.

**Karyn Temple Claggett,**

*Senior Counsel for Policy and International Affairs.*

[FR Doc. 2012-23076 Filed 9-18-12; 8:45 am]

**BILLING CODE 1410-30-P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Nixon Presidential Historical Materials: Opening of Materials

**AGENCY:** National Archives and Records Administration

**ACTION:** Notice of opening of additional materials

**SUMMARY:** This notice announces the opening of additional Nixon Presidential Historical Materials by the Richard Nixon Presidential Library and Museum, a division of the National Archives and Records Administration. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (PRMPA, 44 U.S.C. 2111 note) and 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR Part 1275), the Agency has identified, inventoried, and prepared for public access additional textual materials with certain information redacted as required by law, including the PRMPA.

**DATES:** The Richard Nixon Presidential Library and Museum intends to make the materials described in this notice available to the public on Tuesday, October 23, 2012, at the Richard Nixon Library and Museum's primary location in Yorba Linda, CA, beginning at 10:00 a.m. PDT/1:00 p.m. EDT. In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials must notify the Archivist of the United States in writing of the claimed right, privilege, or defense within 30 days of the publication of this notice.

**ADDRESSES:** The Richard Nixon Presidential Library and Museum, a division of the National Archives, is located at 18001 Yorba Linda Blvd., Yorba Linda, CA. Researchers must have a NARA researcher card, which they may obtain when they arrive at the Library. Selections from these materials will be available at [www.nixonlibrary.gov](http://www.nixonlibrary.gov). Petitions asserting a legal or constitutional right or privilege that would prevent or limit public access to the materials must be sent to the Archivist of the United States, National Archives at College Park, 8601 Adelphi Rd., College Park, Maryland 20740-6001.

**FOR FURTHER INFORMATION CONTACT:** Paul Wormser, Acting Director, Richard Nixon Presidential Library and Museum, 714-983-9119.

**SUPPLEMENTARY INFORMATION:** The following materials will be made available in accordance with this notice:

1. Previously restricted textual materials. Volume: 91 documents consisting of approximately 1,000 pages. A number of textual materials previously withheld from public access have been reviewed for release and/or declassified under the systematic declassification review provisions of Executive Order 13526, the Freedom of Information Act (5 U.S.C. 552), or in accordance with 36 CFR 1275.56 (Public Access regulations). The materials are from integral file segments for the National Security Council Institutional Files; and the Henry A. Kissinger (HAK) Office Files.

Dated: September 7, 2012.

**David Ferriero,**

*Archivist of the United States.*

[FR Doc. 2012-22993 Filed 9-18-12; 8:45 am]

**BILLING CODE 7515-01-P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Requests for copies must be received in writing on or before October 19, 2012. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be