

SECTION 1201 OF TITLE 17

Streamlined Petitions for Renewed Exemptions

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Welcome to the United States Copyright Office’s informational video on section 1201 of title 17 of the United States Code.

This video will give you an overview of the streamlined petitions process for renewed exemptions.

Other videos discuss the legal overview of section 1201 and rulemaking process in depth.

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Under the current law, exemptions that have previously been granted by the Library cannot be renewed automatically or presumptively. However, starting with the seventh triennial rulemaking once a party gets an exemption through the rulemaking process, a party can apply to renew existing exemptions using a streamlined process, without going through another full rulemaking.

Note that the streamlined renewal process cannot be used to get a new exemption, even if it seems related to, or an expansion of, an existing exemption. Any expansions will be considered in the main rulemaking.

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To trigger this type of streamlined renewal, a party must provide a short paragraph explaining the basis for its request to readopt the exemption and declare that: if the exemption is not renewed, users would be unable to make noninfringing uses of the copyrighted works, and are likely to rely upon the exemption in the next three-year period; and there has been no material change in the facts, law, or other circumstances set forth in the prior rulemaking record.

The streamlined petition form is found on the Copyright Office website at www.copyright.gov/1201.

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If the Office receives a request for a streamlined renewal, it will first evaluate whether there is “meaningful opposition” to the renewal of the exemption. Such opposition could include new developments in case law or new factual evidence. The Register must apply the same evidentiary standards

in recommending the renewal of exemptions as for first-time exemption requests. Oppositions that address these standards would be more likely to prevent the Register from recommending renewal of an exemption.

If there is no meaningful opposition, and the Office agrees that the standards for renewal have been met, the existing exemption will be recommended for renewal based on existing evidence, including evidence submitted in the last proceeding. If there is meaningful opposition, the exemption will automatically move to the more comprehensive rulemaking, allowing for full consideration and briefing of the issues.

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This graphic shows the updated rulemaking process. The rulemaking process is started when the Copyright Office issues a Notice of Inquiry in the Federal Register. The Office also announces the start of the rulemaking on its website and in its NewsNet email newsletter.

Petitioners who want to readopt an exemption that was granted in the last rulemaking can submit a form petition. If those renewed exemptions face meaningful opposition, including evidence of new facts or new case law, then the petition to readopt the exemption will be treated like a standard request for an exemption that will go through the normal rulemaking process. Similarly, anyone who wants to expand a previously-granted exemption has to go through the standard rulemaking process.

Once the unopposed and opposed renewals and petitions for new exemptions are collected, the Office will compile and publish the proposed exemption classes in the Federal Register as a Notice of Proposed Rulemaking. Note that the unopposed renewals are being published as a formality. In general, the Copyright Office anticipates that it will recommend renewing any exemptions that were granted in the last rulemaking and for which renewal is unopposed.

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The United States Copyright Office is providing general information about section 1201 of the Copyright Act and its rulemaking proceeding.

By law, the Office cannot provide legal advice to the public.