



ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559

FINAL REGULATION

PART 201

TRANSFER OF UNPUBLISHED COPYRIGHT DEPOSITS TO LIBRARY OF CONGRESS

The following excerpt is taken from Volume 45, Number 120 of the Federal Register for Thursday, June 19, 1980 (pp. 41414-41415).

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 80-3]

Transfer of Unpublished Copyright Deposits to Library of Congress

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting a new regulation to implement section 704(b) of the Copyright Act of 1976, Pub. L. 94-553, 90 Stat. 2541. This section entitles the Library of Congress to select any deposits of unpublished works submitted in connection with copyright registration for its collections or for transfer to the National Archives or to a Federal records center, in accordance with regulations prescribed by the Register of Copyrights. This regulation establishes the procedures for this transfer of unpublished copyright deposits.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, (703) 557-8731.

SUPPLEMENTARY INFORMATION: Section 704(b) of the Copyright Act of 1976 (Act of October 19, 1976, 90 Stat. 2541) entitles the Library of Congress to select any or all the copies, phonorecords, and identifying material deposited for copyright registration for its collections. In the case of published works, no regulations are required to implement this right of the Library of Congress. In the case of unpublished works registered under section 408 of the current Copyright Act, the Register of Copyright shall prescribe by regulation the procedures for transfer of copyright deposits to the Library of Congress.

The rules established by this regulation will permit the Library of Congress to select any deposits of unpublished works at any time before a request for full term retention under the control of the Copyright Office has been granted by the Register of Copyrights in accordance with section 704(e) of the Copyright Act. However, a facsimile reproduction of the entire copyrightable content will be made before transfer of

the deposit to the Library of Congress, unless, within the discretion of the Register, it is considered impractical or too expensive to make the reproduction. We anticipate that these instances will be truly exceptional. The Library will take appropriate measures to protect the work against any infringement of copyright while the deposit forms a part of its collections.

Under the former copyright statute, title 17 of the United States Code in effect on December 31, 1977, the Library of Congress had the right to select copyright deposits of both published and unpublished works, and the statute did not require any regulations to establish the procedure for transfer. The Copyright Office therefore has continued to transfer copyright deposits of unpublished works registered before January 1, 1978 to the Library of Congress. However, after the effective date of this regulation, transfer of unpublished copyright deposits to the Library of Congress will be governed by this regulation whether registration was made before, on, or after January 1, 1978.

Since this regulation governs transfer of property of the United States Government (section 704(a), 17 U.S.C.) from the Copyright Office, a department

of the Library of Congress, to the Library itself, the impact on the public is slight. The rules are not substantive, and they establish no procedures that the public must follow. We are therefore issuing these rules in final form without a period of public comment.

In consideration of the foregoing, Part 201 of 37 CFR, Chapter II, is amended by adding a new § 201.23 which reads as follows:

§ 201.23 Transfer of unpublished copyright deposits to the Library of Congress.

(a) *General.* This section prescribes rules governing the transfer of unpublished copyright deposits in the custody of the Copyright Office to the Library of Congress. The copyright deposits may consist of copies, phonorecords, or identifying material deposited in connection with registration of claims to copyright under section 408 of title 17 of the United States Code, as amended by Pub. L. 94-553, 90 Stat. 2541, effective January 1, 1978. These rules establish the conditions under which the Library of

Congress is entitled to select deposits of unpublished works for its collections or for permanent transfer to the National Archives of the United States or to a Federal records center in accordance with section 704(b) of title 17 of the United States Code, as amended by Pub. L. 94-553.

(b) *Selection by the Library of Congress.* The Library of Congress may select any deposits of unpublished works for the purposes stated in paragraph (a) of this section at the time* of registration or at any time thereafter: *Provided, That:*

(1) A facsimile reproduction of the entire copyrightable content of the deposit shall be made a part of the Copyright Office records before transfer to the Library of Congress as provided by section 704(c) of title 17 of the United States Code, as amended by Pub. L. 94-553, unless, within the discretion of the Register of Copyrights, it is considered impractical or too expensive to make the reproduction;

(2) All unpublished copyright deposits retained by the Library of Congress in

its collections shall be maintained under the control of the Library of Congress with appropriate safeguards against unauthorized copying or other unauthorized use of the deposits which would be contrary to the rights of the copyright owner in the work under title 17 of the United States Code, as amended by Pub. L. 94-553; and

(3) At the time selection is made a request for full term retention of the deposit under the control of the Copyright Office has not been granted by the Register of Copyrights, in accordance with section 704(e) of title 17 of the United States Code, as amended by Pub. L. 94-553.

(17 U.S.C. 702, 704)

Dated: June 16, 1980.

David L. Ladd,
Register of Copyrights.

Approved:

Daniel J. Boorstin,
The Librarian of Congress.

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