

project operating under an existing Commission approval, the project approval reference and a description of the operational changes requested.

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Dated: March 17, 2014.

**Stephanie L. Richardson,**  
*Secretary to the Commission.*

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## LIBRARY OF CONGRESS

### U.S. Copyright Office

#### 37 CFR Parts 201 and 203

[Docket No. 2012-1]

#### **Copyright Office Fees: Registration, Recordation and Related Services; Special Services; Licensing Division Services; FOIA Services**

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

**ACTION:** Final rule.

**SUMMARY:** The United States Copyright Office of the Library of Congress is publishing a final rule establishing adjusted fees for its services. The adjusted fees will recover a significant part of the costs to the Office of registering copyright claims and provide greater cost recovery for certain other services provided by the Office. The new fee schedule reflects some increased and decreased fees, as well as some fees that the Office determined did not require adjustment. Under the new fee structure, the fee for online registration of a standard claim will increase from \$35 to \$55. However, a new online registration option for single works by single authors that are not works made for hire has been introduced at a lower fee of \$35. In addition to fees for registration, related services, and special services, this final rule establishes updated fees for FOIA-related services.

**DATES:** This rule is effective May 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline C. Charlesworth, General Counsel and Associate Register of Copyrights, or Chris Weston, Attorney-Advisor, Office of the General Counsel, at the U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707-8350.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

This final rule adjusts Copyright Office fees in accordance with the

applicable provisions of title 17, United States Code (the “Copyright Act” or “Act”). While some of the Office’s services are free to the public—including the Public Information Office’s provision of valuable guidance on copyright registration and other issues—the Office does charge fees for many of its services.<sup>1</sup> The Copyright Act provides that the Register of Copyrights may adjust the Office’s fees based on a study of its costs for administering the registration of claims and recordation of documents and the provision of other services.<sup>2</sup> Since the Act was amended to provide for these adjustments, the Office has undertaken fee studies every several years and made changes accordingly. The Office last adjusted its fees in 2009.<sup>3</sup>

Section 708(a) of the Act specifies that “[f]ees shall be paid to Register of Copyrights” for the following services:

- (1) Filing an application under Section 408 for registration of a copyright claim or for a supplementary registration, including the issuance of a certificate of registration if registration is made
- (2) Filing an application for registration of a claim for renewal of a subsisting copyright, including the issuance of a certificate of registration if registration is made
- (3) Issuing a receipt for a deposit under Section 407
- (4) Recording a transfer of copyright ownership or other document
- (5) Filing a notice of intention to obtain a compulsory license under Section 115(b)
- (6) Recording a statement revealing the identity of an author of an anonymous or pseudonymous work, or recording a statement relating to the death of an author
- (7) Issuing an additional certificate of registration
- (8) Issuing any other certification
- (9) Making and reporting of a search, and any related services
- (10) Filing a statement of account based on secondary transmissions of

primary transmissions pursuant to Sections 119 and 122

- (11) Filing a statement of account based on secondary transmissions of primary transmissions pursuant to Section 111

In addition, Section 708(a) authorizes the Register to fix fees for other services, such as the cost of preparing copies of Office records.

Section 708 contemplates two different fee-setting mechanisms. Fees for the services described in (1) through (9) above—which include the Office’s registration and recordation functions and thus reflect especially important public policy objectives—are to be set forth in a proposed schedule that is sent to Congress 120 days before the adjusted fees can take effect.<sup>4</sup> Other fees, including those for the filing of cable and satellite statements of account under (10) and (11) and additional Office services, are not submitted to Congress but instead are established by the Register of Copyrights based on the Office’s costs.<sup>5</sup>

Before proposing new fees for the services enumerated in (1) through (9), the Register must conduct a study of the Office’s costs for registering claims, recording documents, and providing other services, and must consider the timing of any fee adjustments and the Office’s authority to use the fees consistent with the Office’s budget.<sup>6</sup> Section 708(b) further provides that the Register may adjust these fees to “not more than necessary to cover the

<sup>4</sup> 17 U.S.C. 708(b). The Register sent the proposed schedule to Congress on November 14, 2013. It is available at <http://www.copyright.gov/docs/newfees/USCOFeeStudy-Nov13.pdf>.

<sup>5</sup> *Id.* section 708(a). With the 2010 enactment of the Satellite Television Extension and Localism Act of 2010, Public Law 111-175, 124 Stat. 1218 (2010) (codified in Sections 111, 119, and 122 of title 17) (“STELA”), Congress for the first time authorized the Office to charge fees to licensees for the Office’s processing of cable and satellite statements of account under the Section 111, 119, and 122 statutory licenses. Such fees are to be “reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.” 17 U.S.C. 708(a). To implement STELA, the Office conducted a study of its costs in relation to the filing of cable and satellite statements and solicited input from stakeholders on proposed fees through a notice and comment proceeding. *See* Copyright Office Fees, 77 FR 18742 (Mar. 28, 2012); Copyright Office Fees, 77 FR 72788 (Dec. 6, 2012), *both available at* <http://www.copyright.gov/docs/newfees/>. As noted above, the STELA fees are not required to be submitted to Congress. In November 2013, the Office issued a final rule establishing filing fees under STELA. *See* Copyright Office Fees: Cable and Satellite Statement of Account Fees, 78 FR 71498 (Nov. 29, 2013) (to be codified at 37 CFR pt. 201), *available at* <http://www.copyright.gov/docs/newfees/>.

<sup>6</sup> 17 U.S.C. 708(b)(1).

<sup>1</sup> *See* 17 U.S.C. 708.

<sup>2</sup> *See* 17 U.S.C. 708(b).

<sup>3</sup> Fees, 74 FR 32805 (U.S. Copyright Office July 9, 2009). In 1997, Congress created a new fee system allowing the Office to set all of its fees by regulation rather than in the statute. An Act to make technical amendments to certain provisions of title 17, United States Code, Public Law 105-80, 111 Stat. 1529 (1997). Before then, Congress itself set the fees for certain basic copyright services, including registration and recordation (often referred to as “statutory fees”) and the Register set the fees for other special services by regulation. In enacting statutory copyright fees, Congress considered a number of criteria, including the cost of providing the service, the value of the service to the Library of Congress, and the benefit of the service to the general public.

reasonable costs incurred by the Copyright Office for . . . [such services], plus a reasonable inflation adjustment to account for any estimated increase in costs.”<sup>7</sup> Finally, Section 708(b) mandates that the “[f]ees [so] established . . . shall be fair and equitable and give due consideration to the objectives of the copyright system.”<sup>8</sup>

Additionally, when assessing fees for providing services under the Freedom of Information Act (“FOIA”), the Office considers Office of Management and Budget (“OMB”) guidelines that explain the methodology for setting such fees.

Pursuant to Section 708, the Office commenced its most recent cost study in October 2011. The Office began its work by compiling preliminary fee and service data from fiscal 2011 and followed this initial research with formal public outreach.

On January 24, 2012, the Office published a Notice of Inquiry (“NOI”)<sup>9</sup> seeking comments on the following two questions: (1) With respect to the standard<sup>10</sup> registration application fee, whether special consideration should be provided to individual author-claimants registering a single work; and (2) whether the Office should expand, improve, or add to its offerings, including, for example, additional expedited services and fee options.

The Office received ten comments in response to the initial inquiry.<sup>11</sup> A majority of the comments supported special consideration for author-claimants registering a single work. Other comments discussed potential additional services.<sup>12</sup>

<sup>7</sup> *Id.* section 708(b)(2).

<sup>8</sup> *Id.* section 708(b)(4).

<sup>9</sup> Copyright Office Fees, 77 FR 3506 (Jan. 24, 2012).

<sup>10</sup> The Office previously referred to the most common registration filings (including for single authors claiming single works) as “basic” applications and registrations. The Office recently began using the term “standard” so it could differentiate between the newly introduced single author/single work offering—which the Office refers to as the “single application” option—and other traditional “basic” registrations, which it now refers to as “standard.”

<sup>11</sup> The comments can be viewed on the Copyright Office Web site at <http://www.copyright.gov/docs/newfees/>.

<sup>12</sup> While the NOI requested comments on additional categories of services, and the Office may continue to explore these issues, at present it lacks sufficient information to proceed with the potential expansion of its special handling or expedited services. In addition, the NOI garnered a number of proposals that the Office appreciates but that could not be addressed solely in the context of a fee study, including: Whether photographers could pay a flat fee for registration of photographs in the context of a business-to-business submission model; whether copyright registration certificates and/or recorded documents could be made available online for free; and whether the Office should accept deposits of

After reviewing the initial comments from the NOI and the data from fiscal 2011, the Office published a Notice of Proposed Rulemaking (“NPR”) on March 28, 2012.<sup>13</sup> In the NPR, the Office set forth a proposed fee schedule, along with its reasoning. The NPR reviewed potential fee changes in four categories: (1) Registration, recordation, and related service fees; (2) other service fees; (3) Licensing Division fees; and (4) FOIA fees.<sup>14</sup> The Office explained that, for most of the fees, it had calculated its costs based on traditional methodology using an activity-based costing process to determine the full cost of each Office service.<sup>15</sup> The Office used OMB guidelines to determine proposed FOIA fees. Proposed fees for Licensing Division services were based either on a separate cost study that addressed the budget and expenditures of the Licensing Division or, in the case of Licensing Division services that parallel other services in the Office, were based on the cost study covering Office services.

The NPR proposed that the Office continue to offer both paper and electronic registration options for standard registration claims and continue to charge a higher fee for paper forms, which are less efficient than electronic forms for both the Office and applicants.<sup>16</sup> The Office also proposed offering a discounted registration fee for single authors who file an online claim for a single work that is not a work made for hire.<sup>17</sup> Referencing its obligation to consider the objectives of the copyright system, the Office noted the importance of independent authors’ contributions to the nation’s economy and to the Library of Congress’s collections.<sup>18</sup> It also noted that many who commented on the NOI supported a lower fee in such situations.<sup>19</sup>

The NPR proposed the following fees for standard registration claims: \$100 for paper applications (up from \$65); and \$65 for other electronic claims (up from \$35). Additionally, the Office recommended a fee of \$45 for the new

works in electronic formats that might be insufficient for the Library’s “best edition” requirement.

<sup>13</sup> Copyright Office Fees, 77 FR 18742 (Mar. 28, 2012).

<sup>14</sup> Some of the fees discussed in the NPR, including various service fees, Licensing Division fees, and FOIA fees, are set by the Office pursuant to its authority under Section 708(a) rather than through the Section 708(b) process, and hence were not discussed in the proposed schedule submitted to Congress.

<sup>15</sup> 77 FR at 18743.

<sup>16</sup> *Id.* 18743.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

category of single authors filing online claims for single works not made for hire.<sup>20</sup> In this regard, it should be noted that the \$35 online application fee initiated in 2009 was discounted to encourage electronic registrations. Prior to that, the fee for standard applications had been universally set at \$45. The Office also proposed raising the fees applicable to group registrations, including for groups of published photographs.<sup>21</sup>

The NPR also proposed new fees for renewal forms. The Office proposed reducing renewal fees from \$115 to \$100.<sup>22</sup> Similarly, the Office proposed lowering the fee for filing a Renewal Addendum, the necessary filing for renewal when standard registration for the work was not made during the original term, from \$220 to \$100.<sup>23</sup> The Office proposed these reductions because renewals are no longer required to secure the full term of copyright protection and it is not feasible to attempt full cost recovery.<sup>24</sup> The NPR noted that setting a fee “to recover full cost would be prohibitive and negate the goals of the Office in encouraging registration of these older claims, many of which may still be commercially viable, and incorporating these claims into the public record.”<sup>25</sup>

Additionally, the NPR discussed raising fees for other Office services. It proposed raising the basic recordation fee from \$105 to \$120 and the fee for each additional ten titles recorded from \$30 to \$35.<sup>26</sup> The Office suggested these increases because, on the whole, it has not recovered the cost of processing recordations in recent years.<sup>27</sup> The Office further recommended increased fees for certification services and issuance of receipts for deposits under 17 U.S.C. 407.<sup>28</sup> The Office also proposed raising the fee for search reports prepared from Office records to \$200 per hour with a two-hour minimum.<sup>29</sup>

The NPR discussed potential changes to the Office’s service fees, which include fees for expedited service (or “special handling”), secure test processing, requests to reconsider rejections of claims, and reproduction of Office records, among other things. The Office proposed increasing the fees for many of these services, with many of

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* 18744.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

these proposals reflecting cost increases. The Office, however, did not propose increased fees for all services (e.g., photocopying fees), and recommended that some fees be lowered.<sup>30</sup>

Regarding expedited handling, the NPR noted that the proposed cost increase reflected inflationary changes and that the Office declined to add additional expedited handling categories at this time.<sup>31</sup> The NPR also stated that the fees for secure test processing should be increased because the review process could include one or more staff members and thus be quite labor intensive.<sup>32</sup> Finally, the NPR explained that, while the Office was not proposing an increase in the fees for requests for reconsideration of rejected claims, it did propose that each request be limited to a single claim.<sup>33</sup>

The NPR also proposed new fees for filing Notices of Intent under Section 115 of the Copyright Act. The Office accepts Notices of Intent when a user cannot serve the requisite notice of use of a musical work on the copyright owner pursuant to Section 115 because Office records do not reflect the owner's identity and address.<sup>34</sup> Recently, there has been an exponential expansion of these notices due to the increased use of musical works by online services.<sup>35</sup> The Office thus is developing an electronic filing system for these notices and, as part of its study, undertook to determine updated filing fees for Notices of Intent.<sup>36</sup> Based on the Office's study, it proposed a fee of \$75 for a notice with a single title, and for notices incorporating additional titles, a fee of \$20 per ten additional titles submitted on paper and \$10 per one hundred additional titles submitted electronically.<sup>37</sup>

Finally, the NPR addressed fees for responding to FOIA requests. The Office noted that it has not adjusted its FOIA fees since 1999. Following the OMB guidelines, which specify that FOIA fees should be established using direct costs, the Office proposed fees as follows: (1) For searches conducted by administrative staff, \$15 for the first half hour and \$7.50 for each additional fifteen minutes; and (2) for searches provided by professional staff, \$35 for the first half hour and \$17.50 for each additional fifteen minutes.<sup>38</sup> Similarly, the Office proposed adopting new fees

for reviewing the documents at the same rates as those proposed for a FOIA search by administrative and professional staff, although the fees for reviewing the documents would be based on fifteen-minute increments and without a minimum fee.<sup>39</sup> Finally, the Office proposed to eliminate the separate FOIA fee for a copy of a certificate of copyright registration and the separate FOIA fee for certification services, currently referenced in 37 CFR 203.6(b)(1), (4), respectively, as those fees are to be assessed in accordance with the fees for those services as provided in the Office's general fee schedule.<sup>40</sup>

The Office received 138 comments in response to the NPR. Some of the commenters requested that the Office expand the definition of single claimant/single author, review the renewal fees, and look to discount bulk registrations. The majority, however, expressed concerns about the proposed fee increases generally. The comments came from a wide range of stakeholders, including photographers, visual artists, several major associations, and others, among them the American Association of Independent Music ("A2IM"), Association of American Publishers, ProQuest, EMI CMG Publishing, Graphic Artists Guild, American Photographic Artists, and the Copyright Alliance.

Some of the comments focused on authors' financial challenges and their difficulty in shouldering higher costs. For example, A2IM argued that "[t]he combination of dedicated anti-piracy resources and regulatory/judicial resources now required of our members to defend their businesses are resources that our [small and medium sized enterprises] simply do not have the financial means or administrative means to meet."<sup>41</sup> Similarly, the American Society of Media Photographers and Professional Photographers of America claimed that "proposed fee increases would be catastrophic for working photographers and would drastically reduce the frequency of their copyright registrations," which would be "devastating to photographers and detrimental to the public record, users of photographs, and the Copyright Office."<sup>42</sup> Some of these comments specified the potential harm in raising group registration rates for published photographs, noting that "a price

increase that nearly doubles the cost of group registration for photographers appears to fly in the face of the Copyright Office's mission to increase participation in the registration process."<sup>43</sup>

After carefully considering its costs and the comments in response to the NPR, on November 14, 2013, the Office submitted a proposed fee schedule to Congress. The schedule addressed those fees authorized by Section 708(a)(1)–(9), including fees for registration and recordation, and its recommendations are followed in this notice and final rule. By statute, Congress has 120 days to enact a law disapproving the Office's proposed fee schedule; if it does not, the Register may institute the proposed fees in a final rule.<sup>44</sup> Now that 120 days have elapsed without the enactment of contrary legislation, the Office is hereby providing notice of the new fee schedule, to go into effect on May 1, 2014. This final rule also sets forth fees for other additional Office services that the Register is authorized to establish through its rulemaking authority without the need to submit them to Congress.<sup>45</sup>

## II. Fee Setting Methodology

In conducting its fee study, the Office considered established accounting procedures used by other governmental entities, including the Federal Accounting Standards Advisory Board's ("FASAB's") guidelines for determining the full cost of federal agency program activities<sup>46</sup> and the OMB's *Circular A-25 Revised: User Charge*<sup>47</sup> document regarding costing guidelines and establishing user fees.<sup>48</sup>

The Office looked primarily to two models to evaluate its costs, namely the additive and activity-based methods.

<sup>30</sup> *Id.* 3.

<sup>31</sup> 17 U.S.C. 708(b)(5).

<sup>32</sup> See *id.* section 708. The fees set in 37 CFR 201.3(e)(6) and (7) (the STELA implementation fees) went into effect on January 1, 2014. They are included in the fee schedule set forth in this Final Rule for ease of insertion into the Code of Federal Regulations.

<sup>33</sup> This includes FASAB's *Managerial Cost Accounting Concepts and Standards for the Federal Government*, which promotes activity-based costing for calculating the cost of providing services. See Office of Mgmt. & Budget, *Statement #4/Managerial Cost Accounting Concepts and Standards for the Federal Government* (July 31, 1995), <http://www.fasab.gov/pdf/ffiles/sffas-4.pdf>.

<sup>34</sup> See Office of Mgmt. & Budget, *Circular No. A-25 Revised*, [http://www.whitehouse.gov/omb/circulars\\_a025](http://www.whitehouse.gov/omb/circulars_a025).

<sup>35</sup> Among other things, *Circular A-25* provides that services with a broad-reaching benefit generally need not recover their full costs, whereas special services, i.e., those that provide a particular benefit to a particular customer, may recover more than their full cost. The excess revenue collected from special services fees can offset losses accruing from other fees that may not recover their full cost.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* 18745.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> 17 U.S.C. 115(b).

<sup>41</sup> 77 FR at 18745.

<sup>42</sup> *Id.* 18745–46.

<sup>43</sup> *Id.* 18746.

<sup>44</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Comments of the Am. Ass'n of Independent Music ("A2IM") at 1 (May 3, 2012).

<sup>42</sup> Joint Comments of Am. Soc'y of Media Photographers & Prof'l Photographers of Am. at 2 (May 14, 2012).

The vast majority of costs were assessed using the activity-based method. Under this approach, the Office calculated how much each service cost the Office to provide after reviewing both the direct and indirect costs in fiscal 2011. Section 115 filings, which are separately administered by the Licensing Division, and Section 407 receipts, a low-volume service that could not be properly considered through the activity-based model, were evaluated using an additive methodology, which assessed staff time devoted to particular tasks. FOIA fees as well were reviewed based on the additive methodology.

Unlike earlier cost studies, to better capture the costs of its services, the Office included some costs that had previously been excluded, including Office of the General Counsel's regulatory activities, which support fee services, and Public Information Office time spent answering registration-related questions. As in previous studies, the study continued to exclude costs associated with the policy and international programs, mandatory deposit program, and programs dedicated to providing general education and information to the public. These exclusions generally relate to staff that work primarily in the Office of the General Counsel, the Office of Policy and International Affairs, the Publications Section, the Public Information Office, and the Copyright Acquisitions Division.

Against this backdrop, the Office undertook a comprehensive review of the fees associated with its various activities. Most copyright processes are labor intensive and staff activity costs can be linked to the various fee services. Under an activity-based approach, personnel resource costs are assigned to specific activities. For example, mailroom personnel in the Receipt Analysis and Control Division are assigned to the activity called "sort mail" (among others), and a determination is made as to the proportion of their time spent on that activity. In the case of personnel costs associated with administration at the division level, costs are apportioned among the activities within the division. Office-wide administrative costs, such as the Register's time and that of her administrative staff, are similarly apportioned. In this way, the Office can capture direct and indirect personnel costs associated with each activity.

The next step in the process is the assignment of non-personnel costs. If non-personnel costs are associated with just one fee service, they were directly assigned to that activity. For example, the maintenance costs for the eCO

system, the online copyright registration system, are assigned directly to the Copyright Technology Office activity eCO. Other non-personnel costs associated with multiple services were allocated proportionately among all relevant activities. Once all non-personnel costs are assigned to an activity, those costs are incorporated into the overall costs for the various fee services. Using an earlier example, the sort mail activity was considered a cost for each fee service that is dependent upon incoming mail including, for example, paper registrations, renewals, and document recordations.

Using these cost determinations as a starting point, the Office considered statutory fee-setting requirements and economic factors, including changes in cost due to inflation. Economic factors, including price elasticity,<sup>49</sup> also played a role in setting the Office's fees. The Office considers elasticity when assessing whether fee receipts will recover the appropriate percentage of costs, both individually and collectively. The Office has determined that a majority of its fees are price elastic and that it experiences a reduction in demand when fees are increased. While external factors, such as the economy, also influence filing volume, there is a demonstrated inverse relationship between the increase in fees and the number of claims filed.

Registration filing and document recordation are two of the most heavily used services, generating well over 90% of the Office's fee receipts. These two categories of fees are quite vulnerable to a decline in demand as fees increase. For example, in the months following a recent fee increase more modest than the one proposed here, registration filings dropped as much as 17%.<sup>50</sup> Therefore, the Office expects a rather significant short-term decrease in filings upon the implementation of the new fees, which should lessen as filers adjust to the fees. Recognizing this fact, the Office must set fees such that each new fee recovers a reasonable percentage of the cost of processing the claim but does not drive down usership to a point where overall receipts decrease.

Additionally, the Office must ensure that fee receipts are sufficient to sustain the Office's operations, taking into account fluctuations in filing volumes,

whether brought on by increased fees and/or other economic factors in the marketplace. It is important that fee receipts bring in enough revenue to cover the greater part of the Office's operations annually and sustain a reserve fund for use in the event of a short-term budgetary shortfall.

The Office reviewed FOIA fees based on the additive methodology and in accordance with the OMB Uniform Freedom of Information Act Fee Schedule and Guidelines.<sup>51</sup> The OMB guidelines state that agencies such as the Office may recoup the full allowable direct costs they incur in responding to FOIA requests. They also state that agencies may establish separate rates for searching records and reviewing responsive records to determine issues such as the applicability of an exemption. The Office is thus adopting a two-tiered fee structure for searches and reviews to reflect the direct costs of the service depending upon the level of the personnel conducting the search. Specifically, the Office is implementing one set of fees for searches conducted by professional staff and another set of fees for searches conducted by administrative staff.

Finally, the Office also took care to consider the overall objectives of the copyright system in developing its fee schedule.

### III. Final Regulation

Based on its study, the Office has determined that some fees should increase, some should decrease, and some should remain the same. From past experience, it is certain that any increase in fees will result in fewer claims, at least temporarily in the time frame immediately following implementation. It is anticipated, however, that, at the fee levels proposed, revenues lost due to a decrease in the number of claims will be offset by revenues generated from the higher fees and ultimately result in an increase in overall fee receipts. The Office estimates that revenues generated by the proposed fees will be roughly \$28 million annually.

Below is a further explanation of the Office's final rule with respect to particular fee categories.

#### *a. Registration, Recordation, and Related Services Fees*

The Office is modifying several fees relating to registration, recordation, and associated services. Some of these adjustments merely account for changes to costs for existing services and the Office's overall level of cost recovery. In

<sup>49</sup> Elasticity is the term used to "measure[] how much the quantity demanded responds to a change in price." Joshua Gans, Stephen King, Robin Stonecash, & N. Gregory Mankiw, *Principles of Economics* 90 (5th ed. 2012) (defining price elasticity).

<sup>50</sup> Number based on the decline of registrations after the introduction of new fees in fiscal year 2007.

<sup>51</sup> 52 FR 10012 (Mar. 27, 1987).

the case of registration and other core Office services, the fees also reflect the public's interest in a robust and accurate record of copyright information, including authorship, licensing information, and public domain status. Finally, in some cases, the Office is not making a change, as there are certain instances where the Office has determined that no adjustment was required.

i. Standard Registrations

- Fee for applications filed online to increase from \$35 to \$55
- Fee for applications filed on paper to increase from \$65 to \$85

The Office offers applicants two options for filing standard applications: (1) Electronic filing through the Office's eCO system; and (2) paper filing using a traditional hard copy application.<sup>52</sup> Currently, the vast majority of applicants use the online filing option; the Office receives approximately 91% of new copyright claims through eCO. Electronic filings cost the Office less to process than paper applications. Additionally, online applications are attractive because, on average, the Office requires between two and five months to complete most claims filed electronically, versus five to eleven months to complete most claims filed on a paper application.

In reviewing its registration fees, the Office closely examined its costs and the degree to which they are recovered under the existing fee structure. Using an average weighted by claim volume,<sup>53</sup> the Office recovered only 65% of the cost to process an online claim and 63% of the cost to process paper applications during fiscal 2011. These figures support the Office's proposal to increase fees for both options, in order to recover a larger percentage of the Office's costs. It is estimated that the new fees (including the single author/single work fee discussed below) would recover 73% of the costs of processing electronic claims and 68% of the costs of processing paper applications.

The Office recognizes the value of paper applications for those applicants who do not have adequate access to the Office's online system or who have other reasons to prefer paper filings. At

the same time, the substantially higher costs of processing paper applications as compared to the more efficient electronic process continues to justify a higher fee for paper applications. Accordingly, the Office will continue to charge different filing fees for these applications. For electronic applications for standard registration claims, the Office is raising the current fee from \$35 to \$55. Though this is a \$20 increase over the current fee, as mentioned above, the current fee of \$35 was lowered from the then-existing fee of \$45 after the Office's launch of its eCO system in order to incentivize electronic filings. The final \$55 fee is thus only \$10 more than the Office's prior non-discounted filing fee. Moreover, the \$55 fee is less than the \$65 fee that was proposed in the NPR, thus responding to public comments concerned with the amount of the increase for electronic filing.<sup>54</sup>

The Office is increasing the existing \$65 fee for paper applications to \$85. This change will provide the Office more cost recovery for the inefficiencies of paper filings. The Office notes that the fee of \$85 is significantly lower than the \$100 fee proposed in the NPR. The revised fee accounts for the Office's consideration of public comments arguing that a \$100 fee was unduly harsh.<sup>55</sup> After reviewing the comments, the Office concluded that, while budget and cost considerations mandate an increase, the increase should be more modest in light of the significant public interest in registration, including through a paper-based process.

ii. Single Author, Single Work Applications Filed Online

- Fee for single registration application filed online by a single author for a single work not made for hire to remain at \$35

<sup>54</sup> See, e.g., Comments of the Ass'n of Am. Publishers at 2 ("[T]he pending proposal to nearly double current online registration fees would, if adopted, lead many [publishers], especially but not exclusively the small or non-profit publishers, to reevaluate the categories of works currently being registered with the objective of reducing their registration costs.") (emphasis in original).

<sup>55</sup> See, e.g., Joint Comments of Am. Soc'y of Media Photographers & Prof'l Photographers of Am. at 3 (May 14, 2012) ("Although we recognize the Copyright Office's desire to encourage registrants to use the eCO registration platform over Form VA, we believe that nearly doubling the cost for those adept at using Form VA would create a significant deterrent to registration in its entirety."); Comments of ArtistsUndertheDome.org at 2 (May 14, 2012) ("The . . . \$100 [fee] is unacceptable . . . those who use paper filing systems tend to be older, do not have access to the internet or fast internet services such as broadband, and/or they tend to be lower income. . . . These proposed increased fees will mean less artists will be able to afford to register their copyright(s).").

As discussed above, the Office is committed to maintaining an affordable copyright registration system and understands that works of independent creators fuel the nation's economy and are critical to the Library of Congress' collections. Moreover, if individual authors do not register and are not part of the public database, they—more than any other group of copyright owners—may be difficult to find.

In making the decision to add a new registration category for individual authors, the Office took into account a large number of public comments advocating for a lower fee. Commenters noted, as did the Office, that such applications are easier to process, that registration provides important remedies for the author, and that registration benefits the public by creating a more robust public record. As one commenter noted, "[Office] [s]ervices which facilitate individual author-claimants registering a single work that is not a work made for hire . . . promote and protect authorship and potentially sharpen the chain of title documentation. . . ." <sup>56</sup> Those supporting a reduced fee for single author/single work claims came from a variety of backgrounds, including the performing and visual arts. The Office believes this option will serve a wide range of authors.<sup>57</sup>

iii. Group Registration, Mask Work, and Vessel Hull Fees

- Fees for registration of a claim in a group of contributions to a periodical (Form GR/CP) or database updates to increase from \$65 to \$85
- Fees for group registration of published photographs or registration of automated databases that predominately consist of photographs and updates thereto: for paper filings, fee will remain at \$65 and for electronic filings, fee will increase from \$35 to \$55
- Fees for registration of a claim in a group of serials (Form SE/Group) (per issue, minimum of two issues) to remain at \$25
- Fees for registration of a claim in a group of daily newspapers and qualified newsletters (Form G/DN) to remain at \$80

<sup>56</sup> Comments of Indep. Film & Television Alliance at 1 (Feb. 23, 2012).

<sup>57</sup> After proposing this option, the Office published an additional **Federal Register** notice explaining that the single author/single claim application was available for use on the Office's eCO system. See Single Application Option, 78 FR 38843 (U.S. Copyright Office June 28, 2013). In the past several months, applicants have begun to use the new procedure, allowing the Office to assess how best to implement the process and assist individual authors.

<sup>52</sup> The Office eliminated Form CO in the summer of 2012, thus leaving only two methods for filing a standard registration claim. See Discontinuance of Form CO in Registration Practices, 77 FR 18705 (U.S. Copyright Office Mar. 28, 2012); Discontinuance of Form CO in Registration Practices Correction, 77 FR 29988 (U.S. Copyright Office Apr. 9, 2012).

<sup>53</sup> For example, claims for LIT were weighted more heavily than claims for VA in calculating average volume because the Office receives more LIT claims than VA claims.

- Fees for registration of a claim in a mask work (Form MW) to increase from \$105 to \$120
- Fees for registration of a claim in a vessel hull (Form D/VH) to increase from \$220 to \$400

The Office has determined that the fees for registration of some but not all types of group claims should be adjusted.

The fee to register a claim in a group of contributions to a periodical—a paper-based process that is labor-intensive—will increase from \$65 to \$85.

In the case of both serials and newspapers, where the Office's cost recovery currently appears adequate, the Office is not making an adjustment. Although the NPR had indicated that these two latter categories of fees would also be subject to an increase, upon further analysis, the Office believes that the current fees remain appropriate.

Similarly, for paper applications for groups of published photographs and for automated databases that predominately consist of photographs and updates thereto, the Office is making no increase. Despite its initial proposal to increase this fee, the Office now believes it should remain at \$65. Comments received in response to the Office's initial fee proposal demonstrate that photographers face particular challenges with the registration process due to the large quantities of works they often create in brief periods of time.<sup>58</sup> In light of these conditions, the Office is continuing to study how best to facilitate photographers' registration of their works. Thus, while the Office may alter the fee structure for registration of groups of published photographs in the future, the fee for paper applications will not change now.

For electronic applications for these types of photograph claims, however, the fee will increase from \$35 to \$55, so it is consistent with the fees for other electronic applications.<sup>59</sup>

Finally, the mask work and vessel hull registration fees are being increased to recover a greater percentage of the costs of processing these claims.

#### iv. Other Registration Fees

- Fee for registration of a claim in a restored copyright (Form GATT) to increase from \$65 to \$85

- Fee for registration of a correction or amplification to a claim (Form CA) to increase from \$100 to \$130

After reviewing its costs, the Office determined that current fees do not offset a sufficient percentage of the Office's costs in accepting registrations for paper-based claims, which include claims in restored copyrights (Form GATT). In addition, it concluded that the current fee for filing a registration of a correction or amplification to a claim (Form CA), another paper-based process, was insufficient. Paper-based processes are considerably less efficient than electronic registration.

Accordingly, the Office is increasing both of these fees.

#### v. Renewal Fees

- Fee for renewal application to decrease from \$115 to \$100
- Fee for renewal addendum to decrease from \$220 to \$100

The Office is making these reductions due to the unique nature of renewals in the history of copyright law and recent experiences in reviewing renewal documents. Under prior law, certain copyright claims had to be renewed with the Office in their twenty-eighth year of protection to remain valid for the remainder of their terms. The current Act changed the renewal requirement; a renewal is no longer necessary to secure the full term of copyright protection. Nonetheless, for pre-1978 works, renewal registration still offers certain benefits for the owner and the public.

There has been a dramatic decrease in renewal registrations over the past seven years, likely due to the change in law and increased fees associated with renewal. In this same time frame, some of those who may have benefited from filing renewal registrations have instead mistakenly attempted to file initial claims of registration. Dwindling and incorrect renewal registrations diminish the public record, thus harming the Office's overall mission to serve as a robust repository of copyright information.

The Office's decision to lower the renewal fee to \$100 should encourage the filing of more renewal claims. Similarly, the fee for a renewal addendum, an additional requirement when standard registration for the work was not made during the original term, will also be lower. A renewal addendum documents the copyright status of a work, thus allowing users to know whether the work is under copyright protection. The Office believes that the lower fees for renewals and renewal addendums strike the appropriate balance between cost recovery and the public record.

#### vi. Recordation of Documents

- Fee for recordation of a document to remain at \$105
- Fee for recording groups of up to ten additional titles associated with that document to increase from \$30 to \$35

In the NPR, the Office proposed increases to its recordation fees to help the Office better recover costs in this area. The Office's eCO system permits electronic registration of copyright claims. By contrast, the Office's recordation system—which is not part of eCO—remains a largely paper-driven process. Although the Office recovers the cost of recording simple documents, it has been unable to recover the full cost associated with processing more substantial documents that include multiple titles of copyrighted works. The titles, which can number in the thousands, must each be individually indexed.

Recordation of copyright transfers and other copyright-related documents is a voluntary process but critical to maintaining a public record of copyright ownership. The proposed increase to \$35 for each ten additional titles associated with a recorded document will allow for greater cost recovery in the case of more complicated filings but should not be unduly burdensome for filers. At the same time, upon further analysis of its costs, the Office has determined that it is not necessary to change the existing fee of \$105 for its basic recordation service, where it is already achieving full recovery.

The Office is currently considering how to migrate its recordation function to an electronic system, a process which may require both statutory changes and technological upgrades, and will continue to evaluate its recordation fees as that process moves forward.<sup>60</sup>

#### vii. Certification Fees

- Fee for issuance of additional certificate of registration to increase from \$35 to \$40
- Fee for certification of other Office records, including search reports, to increase from \$165 to \$200 per hour

Based on the cost study, the Office is enacting a modest increase to the fee for issuance of additional certificates of registration. Even though this could yield fee receipts slightly above the Office's costs of providing additional certificates, the limited increase is appropriate under the fee-setting principles articulated in OMB's Circular A-25 because the service in question

<sup>58</sup> See, e.g., Joint Comments of the Am. Soc'y of Media Photographers & Prof'l Photographers of Am. (May 4, 2012); Comments of Nat'l Press Photographers Ass'n (May 14, 2012).

<sup>59</sup> Although both the NPR and the proposed schedule submitted to Congress tacitly subsumed these electronic group photograph applications under "standard" applications filed online, because they are not truly "standard," this final rule clarifies their separate status as group applications.

<sup>60</sup> The Office is looking at this issue in several ways, including through stakeholder meetings, technology assessments, and scholarly analysis as to the recordation requirements of title 17.

benefits only the individual requester and any excess fee receipts can be used to subsidize other services with lower cost recovery. Moreover, at \$40, the new fee remains reasonable for requesters.

With respect to other types of Office records and search reports, as in past cost studies, the Office has determined that fee receipts cover less than the actual costs of providing certification services. The Office recognizes, however, that users need to be able to obtain certified copies of Office records for legal and other purposes. Although the Office is proposing an increase in its fee for these additional certification services to \$200 per hour, it has been mindful of its duty to balance the goal of cost recovery against the need for access to reliable public records. It is therefore establishing this fee below full cost recovery.

#### viii. Search Reports and Records Retrieval

- Fee for reference search reports (other than Licensing Division reports) to increase from \$165 to \$200 per hour, with a two-hour minimum
- Fee for estimate of search fee to increase from \$115 to \$200 (applied against the search charges)
- Fee for retrieval of in-process or completed Copyright Office records or other materials to increase from \$165 to \$200 for both paper records (per hour, one hour minimum) and digital records (per hour, half hour minimum, quarter hour increments)

The Office's imposition of a two hour minimum charge in 2009 for search reports prepared from Office records (other than those prepared from Licensing Division records) resulted in a substantial increase in cost recovery. Nevertheless, as in past cost studies, the Office has found that the fee covers only a portion of the actual cost of providing the reference search service. To achieve full cost recovery would render the cost too high for the average user as a practical matter. A very high fee also prejudices users who, for legal reasons, are required to have the Office conduct a search.

Accordingly, the Office is implementing a fee increase from \$165 to \$200 per hour for search reports, again with a two hour minimum (other than for reports prepared from Licensing Division records). To permit additional cost recovery, the Office will also increase the estimate of search fee—which covers the cost of estimating the total fees for a search and is credited against the hourly search fee—from \$115 to \$200.

Finally, the fee increase for retrieval of in-process or completed Copyright

Office records or other Copyright Office materials is consistent with the Office's need to more fully recover the cost of its services.

#### ix. Other Services

- Fee for preregistration of certain unpublished works to be increased from \$115 to \$140
- Fee for recordation of a designation of an agent under Section 512(c)(2) to remain at \$105, with the fee for additional names (per group of 1 to 10) to be increased from \$30 to \$35
- Fee for issuance of a receipt for a Section 407 deposit to remain at \$30

The fee increases for preregistration of certain unpublished works and for recordation of additional names (in groups of 1 to 10) in conjunction with the designation of an agent to receive notices of infringement under Section 512(c)(2) of title 17 (codifying Section 202 of title II of the Digital Millennium Copyright Act (“DMCA”)) were set forth in the NPR and did not elicit any comments, so the Office is implementing these fee increases as proposed. The Office believes that the current fees applicable to recording the designation of a DMCA agent itself and for issuance of a receipt for a Section 407 deposit are adequate, so these will remain unchanged.<sup>61</sup>

#### b. Special Services Fees

##### i. Special Handling

- Fee for special handling of registration claims to increase from \$760 to \$800, with the handling fee for each non-special handling claim using the same deposit to remain at \$50
- Fee for special handling of document recordation to increase from \$480 to \$550
- Fee for special handling of a search report to increase from \$280 to \$300 per hour (for up to two hours)<sup>62</sup>
- Fee for special handling of retrieval, certification, and copying requests to increase from \$265 to \$305 per hour

The surcharges assessed for obtaining expedited registration, recordation and other services reflect a premium payment for the value of the expedited

<sup>61</sup> The Office notes that it is currently engaged in efforts to convert its DMCA agent registration system to a fully electronic process. The introduction of a new system will likely result in future adjustment of the fees applicable to recordations under Section 512(c)(2).

<sup>62</sup> This service is currently described as “expedited search report” and priced at \$445 per hour, a number that combines the basic search report fee with the surcharge for expedited service. In this final rule, the Office has separated the two fees, so that the new \$300 hourly fee represents only the surcharge on top of the new \$200 hourly fee for the search report.

service to the individual requester. The Office believes that increases to these fees are both reasonable and justified in light of the diversion of Office resources that is required to provide this type of specialized handling for individual customers.

##### ii. Secure Test Processing

- Fee for secure test processing to increase from \$165 to \$250 per staff member per hour

The Office provides specialized services for secure test processing, specifically a private review of the full deposit of a secure test that involves a comparison of the deposit with identifying material that does not disclose confidential content. The Office is implementing the above fee increase based on the cost of supplying this service. The charge will be applied per staff member because two or more staff members may be required to expedite the review of the deposits.

##### iii. Requests for Reconsideration of Rejections of Claims (Appeals)

- Fee for first request for reconsideration to remain at \$250 (but the option of adding claims beyond those in the subject registration is no longer available)
- Fee for second request for reconsideration to remain at \$500 (but the option of adding claims beyond those in the subject registration is no longer available)

The Office is not changing the fees for the first and second reconsideration of a single claim, in part because the Office recognizes that an increase in fees may impede a claimant from pursuing administrative review of a rejected claim. The Office is, however, eliminating its practice of allowing applicants to include multiple related claims that were *not* covered by a single application in a single request for reconsideration. Previously, the Office allowed applicants to consolidate requests to reconsider works from different applications if the works were related. It is not, however, necessarily more efficient to review multiple claims, because each claim must still be analyzed separately. Thus, the Office is making a change to the process so that the fee for a request for reconsideration will cover only the work or works included in a single original claim for registration.

##### iv. Deposit Copies

- Fee for handling an extra deposit copy for certification to increase from \$45 to \$50



- Fee for full-term retention of a published deposit to increase from \$470 to \$540

The Office believes that fees for handling extra deposit copies for certification and for full-term retention of published deposits should be increased to reflect the specialized nature of these services, which benefit individual customers.

#### v. Copying Fees

- Fee for black and white photocopies on 8½ x 11 paper to remain at \$0.50 per page with a \$12 minimum
- Fee for black and white photocopies on 11 x 17 paper to remain at \$1 per page with a \$12 minimum
- Fee for color photocopies on 8½ x 11 paper to remain at \$2 per page with a \$12 minimum
- Fee for color photocopies on 11 x 17 paper to remain at \$4 per page with a \$12 minimum
- Fee for copies of audiocassettes and videocassettes to remain at \$75 for the first 30 minutes and at \$20 for each additional fifteen-minute increment
- Fee for copies of CDs or DVDs to be reduced from \$100 to \$30
- Fee for new service of copying to flash drives to be established at \$30
- Fee for copying to unsupported formats and other copying of materials by outside providers to be at cost of provider

Based upon consultation with those who provide copying services, the Office finds that it is advisable to maintain the current fees for most copying services. The Office is, however, reducing the fee for copying CDs and DVDs due to lower copying costs. Additionally, the fee for copying to formats unsupported by the Office will be what the provider charges the Copyright Office. The Office no longer directly handles photographs, slides, zip drives, and floppy discs, so the fees for copying in these formats will be assessed at the cost of the provider. Similarly, in the case of copies that the Office must request from the Library of Congress's Duplication Services, the Office will pass along the actual cost to the customer.

#### vi. Other Special Services Fees

- Fee for service charge for deposit account overdraft to increase from \$165 to \$250
- Fee for service charge for dishonored deposit account replenishment check to increase from \$85 to \$100
- Fee for service charge for an uncollectible or non-negotiable payment to increase from \$25 to \$30

- Fee for service charge for Federal Express mailing to increase from \$40 to \$45
- Fee for notice to libraries and archives to remain at \$50, with the fee for each additional title to remain at \$20
- Fee for the service charge for delivery of documents via facsimile (per page, seven-page maximum) to remain at \$1 per page

The Office finds that it is appropriate to raise fees for some other special services in order to improve cost recovery. Specifically, after reviewing the costs of the above services, the Office has determined these fees should be raised except for fees for notices to libraries and archives and those for facsimile delivery services.

#### c. Licensing Division Fees

##### i. Recordation of a Notice of Intention To Make and Distribute Phonorecords Under Section 115

- Fee for filing a basic notice with a single title to increase from \$60 to \$75
- Fee for paper filing of additional titles to remain at \$20 per set of ten titles
- Fee for electronic filing of additional titles to be established at \$10 per set of one hundred titles

With the rise of digital services offering expansive catalogs of music, many more users seek to file notices of intent to avail themselves of the Section 115 statutory license when they cannot identify or locate the owners of particular musical works in Office records. In 2009, the Office responded by adjusting its Section 115 filing fees to accommodate the submission of multiple titles at the same time. More recently, the Office has initiated a test of an electronic filing option to allow for more cost-effective processing of digitally submitted notices with multiple titles. While the new fees reflect the higher costs of handling single-title notices, they also take into consideration the cost savings associated with electronic submission of multiple titles by adopting a substantially lower per-title fee for such submissions.

##### ii. Recordation of Licensing Agreements and Contracts

- Filing fee for recordation of a licensing agreement pursuant to 17 U.S.C. 118 to remain at \$140
- Fee for recordation of certain contracts by cable television systems located outside the forty-eight contiguous states pursuant to 17 U.S.C. 111 to remain at \$50

The Office determined that it was not necessary to increase the fees for recordation of a licensing agreement

under Section 118 or for recordation of certain contracts by cable systems as provided under Section 111, so these fees will remain at their current levels.

##### iii. Other Licensing Division Fees

- Fee for statement of account amendment (cable television systems and satellite carriers, 17 U.S.C. 111 and 119; digital audio recording devices or media, 17 U.S.C. 1003) to increase from \$100 to \$150
- Fee for notice of digital transmission of sound recording (Sections 112, 114) to increase from \$25 to \$40
- Fee for amended notice of digital transmission of sound recording to increase from \$25 to \$40
- Fee for search report prepared from Licensing Division records to increase from \$165 to \$200 per hour, with a one-hour minimum

For search reports prepared from Licensing Division records, while the proposed hourly fee adjustment tracks that for general Copyright Office search reports, the Office believes that a one hour (rather than two hour) minimum is sufficient in the case of Licensing Division searches are purely factual, for example, due diligence searches to verify that mandatory filings were made. Such searches often can be conducted fairly quickly and thus the Office has determined that a one-hour minimum is sufficient.

The fee increases for certain other Licensing Division services listed above were proposed in the NPR and received no negative comments. The Office is therefore implementing these increases to achieve greater cost recovery.

#### d. FOIA Services Fees

- Fee for a search prepared by administrative staff (per quarter hour increment with a half hour minimum) to change from \$16.25 to \$7.50
- Fee for a search prepared by professional staff (per quarter hour increment with a half hour minimum) to change from \$16.25 to \$17.50
- Fee for a review of documents performed by administrative staff, per quarter hour, to be assessed at \$7.50 an hour
- Fee for a review of documents performed by professional staff, per quarter hour, to be assessed at \$17.50 an hour

As explained above, the Office looked to OMB guidelines when setting its fees for FOIA requests. Currently, the Office charges an hourly fee for searches related to such requests. The Office last adjusted its FOIA fees in 1999.

The Office is implementing a fee adjustment and a new schedule for



assessing FOIA search fees and reviewing the documents. OMB guidelines allow agencies to set an average fee based on the individuals processing FOIA requests where there are homogeneous classes of personnel used to perform the required service (*i.e.*, identifiable classes of personnel that have like characteristics—in this case, all professional or all administrative staff). The Office thus is establishing two sets of review and search fees: (1) One fee for those services conducted at the technical or administrative level; and (2) a higher fee for those services conducted at the professional level. These fees will be charged in quarter hour increments, with a minimum of a half hour for a search to account for overhead. The Office thus will charge \$7.50 per quarter hour increment for searches performed by administrative staff, with a minimum fee of \$15 to cover the first half hour. For searches performed by professional staff, the Office will assess a fee of \$17.50 per quarter hour increment, with a minimum fee of \$35. The same fee

structure will apply to review services, but with no minimum fee.<sup>63</sup>

Finally, as noted above, the Office is revising two provisions of 37 CFR 203.6(b) to eliminate FOIA-specific fees for obtaining copies of registration certificates and for certification services (currently referenced in 37 CFR 203.6(b)(1) and (4), respectively). Pursuant to 37 CFR 203.6(a), the fees for these services, which involve the public records of the Copyright Office, are to be assessed in accordance with the Office's general fee schedule. The Office believes these changes will help to avoid confusion about the applicable fee when such services are provided in connection with a FOIA request.

#### List of Subjects

##### 37 CFR Part 201

Copyright, General provisions.

##### 37 CFR Part 203

Copyright, Freedom of Information Act: Policies and Procedures.

#### Final Rule

In consideration of the foregoing, under the authority of 17 U.S.C. 702, the U.S. Copyright Office amends 37 CFR chapter II as follows:

#### CHAPTER II—U.S. COPYRIGHT OFFICE, LIBRARY OF CONGRESS

■ 1. The heading of chapter II is revised to read as set forth above.

#### PART 201—GENERAL PROVISIONS

■ 2. The authority citation for part 201 continues to read as follows:

**Authority:** 17 U.S.C. 702.

■ 3. Revise § 201.3(c), (d), and (e) to read as follows:

#### § 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

\* \* \* \* \*

(c) *Registration, recordation, and related service fees.* The Copyright Office has established the following fees for these services:

Registration, recordation and related services	Fees (\$)
(1) Registration of a standard claim in an original work of authorship:	
Electronic filing:	
(i) Single author, same claimant, one work, not for hire .....	35
(ii) All other filings .....	55
Paper Filing (Forms PA, SR, TX, VA, SE, SR) .....	85
(2) Registration of a claim in a group of contributions to periodicals (Form GR/CP) or database updates .....	85
(3) Registration for a group of published photographs, or an automated database that predominately consists of photographs and updates thereto:	
(i) Electronic filing .....	55
(ii) Paper filing .....	65
(4) Registration of a renewal claim (Form RE):	
(i) Claim without addendum .....	100
(ii) Addendum (in addition to the fee for the claim) .....	100
(5) Registration of a claim in a group of serials (Form SE/Group) (per issue, minimum 2 issues) .....	25
(6) Registration of a claim in a group of daily newspapers and qualified newsletters (Form G/DN) .....	80
(7) Registration of a claim in a restored copyright (Form GATT) .....	85
(8) Preregistration of certain unpublished works .....	140
(9) Registration of a correction or amplification to a claim (Form CA) .....	130
(10) Registration of a claim in a mask work (Form MW) .....	120
(11) Registration of a claim in a vessel hull (Form D/VH) .....	400
(12) Provision of an additional certificate of registration .....	40
(13) Certification of other Copyright Office records, including search reports (per hour) .....	200
(14) Search report prepared from official records other than Licensing Division records (per hour, 2 hour minimum) .....	200
Estimate of search fee (credited to search fee) .....	200
(15) Retrieval of in-process or completed Copyright Office records or other Copyright Office materials:	
(i) Retrieval of paper records (per hour, 1 hour minimum) .....	200
(ii) Retrieval of digital records (per hour, half hour minimum, quarter hour increments) .....	200
(16) Recordation of document, including a notice of intention to enforce (single title) .....	105
Additional titles (per group of 1 to 10 titles) .....	35
(17) Recordation of a designation of agent to receive notification of claimed infringements under § 512(c)(2) .....	105
Additional names (per group of 1 to 10) .....	35
(18) Issuance of a receipt for a § 407 deposit .....	30

(d) *Special Service Fees.* The Copyright Office has established the

following fees for special services of the Office:

<sup>63</sup> In this regard, the Office notes that it is revising the language of the provision concerning the

applicability of FOIA review fees (currently

codified at 37 CFR 203.6(b)(7)) to more closely track the language of the FOIA statute.

Special services	Fees (\$)
(1) Service charge for deposit account overdraft .....	250
(2) Service charge for dishonored deposit account replenishment check .....	100
(3) Service charge for an uncollectible or non-negotiable payment .....	30
(4) Appeals:	
(i) First appeal (per claim) .....	250
(ii) Second appeal (per claim) .....	500
(5) Secure test processing charge (per staff member per hour) .....	250
(6) Copying of Copyright Office records by staff:	
Photocopy (black & white, 8½ x 11) (per page, minimum: \$12) .....	0.50
Photocopy (black & white, 11 x 17) (per page, minimum: \$12) .....	1
Photocopy (color, 8½ x 11) (per page, minimum: \$12) .....	2
Photocopy (color, 11 x 17) (per page, minimum: \$12) .....	4
Audiocassette (first 30 minutes) .....	75
Additional 15 minute increments .....	20
Videocassette (first 30 minutes) .....	75
Additional 15 minute increments .....	20
CD or DVD .....	30
Flash drive .....	30
Unsupported formats and other copying of materials by outside providers, at cost of provider .....	Variable.
(7) Special handling fee for a claim .....	800
Handling fee for each non-special handling claim using the same deposit .....	50
(8) Special handling fee for recordation of a document .....	550
(9) Handling fee for extra deposit copy for certification .....	50
(10) Full-term retention of a published deposit .....	540
(11) Special handling of search report, per hour (for up to 2 hours) .....	300
Additional hours of searching, per hour .....	500
(12) Special handling of retrieval, certification, and copying, per hour .....	305
(13) Notice to libraries and archives .....	50
Each additional title .....	20
(14) Service charge for Federal Express mailing .....	45
(15) Service charge for delivery of documents via facsimile (per page, 7 page maximum) .....	1

(e) *Licensing Division service fees.* following fees for specific services of the  
The Copyright Office has established the Licensing Division:

Licensing division services	Fees (\$)
(1) Recordation of a notice of intention to make and distribute phonorecords (17 U.S.C. 115) .....	75
Additional titles (per group of 1 to 10 titles) (paper filing) .....	20
Additional titles (per group of 1 to 100 titles) (online filing) .....	10
(2) Statement of account amendment (cable television systems and satellite carriers, 17 U.S.C. 111 and 119; digital audio recording devices or media, 17 U.S.C. 1003) .....	150
(3) Recordation of a licensing agreement for use of certain works in connection with noncommercial broadcasting (17 U.S.C. 118) .....	140
(4) Recordation of certain contracts by cable TV systems located outside the 48 contiguous states .....	50
(5) Notice of digital transmission of sound recording (17 U.S.C. 112, 114) .....	40
Amended notice of digital transmission of sound recording .....	40
(6) Processing of a statement of account based on secondary transmissions of primary transmissions pursuant to 17 U.S.C. 111:	
(i) Form SA1 .....	15
(ii) Form SA2 .....	20
(iii) Form SA3 .....	725
(7) Processing of a statement of account based on secondary transmissions of primary transmissions pursuant to 17 U.S.C. 119 or 122 .....	725
(8) Search report prepared from Licensing Division records (per hour, 1 hour minimum) .....	200

\* \* \* \* \*

## PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

■ 4. The authority citation for part 203 continues to read as follows:

**Authority:** 17 U.S.C. 702; 5 U.S.C. 552, as amended.

■ 5. Revise § 203.6(b) to read as follows:

### § 203.6 Schedule of fees and methods of payment for services rendered.

\* \* \* \* \*

(b) *FOIA requests.* In responding to requests under this part the following fees shall be assessed, unless a waiver or reduction in fees has been granted pursuant to paragraph (d) of this section:

(1) For each quarter hour spent by administrative staff in searching for a

requested record, \$7.50; for each quarter hour spent by professional staff in searching for a requested record, \$17.50, with a half hour minimum in both cases. No search fee shall be assessed with respect to requests by educational institutions, non-commercial scientific institutions, and representatives of the news media. Search fees shall be assessed with respect to all other requests, subject to the limitations of

paragraph (c) of this section. Fees may be assessed for time spent searching even if the search fails to locate any responsive records or where the records located are subsequently determined to be entirely exempt from disclosure.

(2) For computer searches of records, which may be undertaken through the use of existing programing, the actual direct costs of conducting the search including the cost of operating a central processing unit for that portion of operating time that is directly attributable to searching for records responsive to a request, as well as the direct costs of operator/programmer salary apportionable to search (at no less than \$65 per hour or fraction thereof).

(3) For each quarter hour spent by administrative staff in reviewing a requested record, \$7.50; for each quarter hour spent by professional staff in reviewing a requested record, \$17.50, with no minimum. No review fee shall be assessed with respect to requests by educational institutions, non-commercial scientific institutions, and representatives of the news media. Review fees shall be assessed with respect to all other requests, subject to the limitations of paragraph (c) of this section. Review fees shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed and for the purposes of withholding any portions exempt from disclosure. No review fee will be charged for time spent in resolving issues of law or policy that may be raised in the course of processing a request.

(4) For copies of all other Copyright Office records not otherwise provided for in this section, a minimum fee of \$15.00 for up to 15 pages and \$.50 per page over 15.

(5) Other costs incurred by the Copyright Office in fulfilling a request will be chargeable at the actual cost to the Office.

\* \* \* \* \*

Dated: March 17, 2014.

**Maria A. Pallante,**  
*Register of Copyrights.*

Approved by:

**James H. Billington,**  
*Librarian of Congress.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

**RIN 2900-AO87**

#### **Vocational Rehabilitation and Employment Program: Changes Related to the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its regulation to reflect a change made by the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012. If a veteran has been displaced as the result of a natural or other disaster while being paid an allowance, referred to as an employment adjustment allowance, this Act allows the extension of the allowance. This amendment is necessary to conform the regulation to the statutory provision.

**DATES:** *Effective Date:* This final rule is effective March 24, 2014.

*Applicability Date:* In accordance with the amended statutory provision of 38 U.S.C. 3108(a)(2), this final rule pertains to all awards of employment adjustment allowance processed on or after August 6, 2013.

**FOR FURTHER INFORMATION CONTACT:** C.J. Riley, Policy Analyst, Vocational Rehabilitation and Employment Service (28), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 461-9600. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** Section 3108 of 38 U.S.C. establishes the criteria for entitlement to allowances payable under 38 U.S.C. chapter 31. Section 3108(a)(2) provides for payment of a subsistence allowance for any veteran who has been rehabilitated to the point of employability for two months while the veteran is satisfactorily following a Vocational Rehabilitation and Employment (VR&E) program of employment services. This statutory provision regarding a veteran's entitlement to such subsistence allowance, referred to as an employment adjustment allowance (EAA), is implemented by 38 CFR 21.268.

Section 701(b) of Public Law 112-154, Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, amended 38 U.S.C. 3108(a)(2) by providing that VA may extend the payment of an EAA up to an additional two months while the veteran is

satisfactorily following a VR&E program of employment services if the veteran has been displaced as a result of a natural or other disaster while being paid an EAA. To make it clear that a veteran displaced as a result of a natural or other disaster may receive up to an additional two months of the EAA, we are amending our regulation to include this requirement. VA is implementing the statutory amendment in 38 CFR 21.268 by re-designating current paragraph (f), "Employment adjustment allowance not charged against entitlement.", as new paragraph (g), and adding a new paragraph (f), "Special situations." We will start paying this additional two months of EAA beginning August 6, 2013, when the law took effect. We note the effective date of August 6, 2013, in new paragraph (f). In addition, we are adding an authority citation to the end of the paragraph for clarification.

#### **Administrative Procedure Act**

The Secretary of Veterans Affairs finds there is good cause under the provisions of 5 U.S.C. 553(b)(B) and (d)(3) to publish this rule without prior opportunity for public comment and with an immediate effective date. The regulatory change made by this rule reflects a change in statute that VA is adopting directly, without change, into VA's regulations. By statute, Congress is allowing up to an additional two months of a special allowance for veterans following a program of employment services who have been displaced as a result of a natural disaster. The regulatory change does not involve interpretation of this statutory provision. Consequently, opportunity for public comment is unnecessary. The statutory change was enacted on August 6, 2012, made effective on August 6, 2013. Due to the above considerations, VA is issuing this rule as a final rule, effective immediately upon publication.

#### **Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and