



ANNOUNCEMENT

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

FINAL REGULATIONS

REGISTRATION OF CLAIMS TO COPYRIGHT; MANDATORY DEPOSIT OF MACHINE-READABLE COPIES

The following excerpt is taken from Volume 54, Number 198 of the Federal Register for Monday, October 16, 1989 (pp. 42295-42300)

COPYRIGHT OFFICE

Library of Congress

37 CFR Part 202

[Docket No. RM 88-6A]

Registration of Claims to Copyright; Mandatory Deposit of Machine- Readable Copies

AGENCY: Library of Congress, Copyright Office.

ACTION: Final Regulations.

SUMMARY: The Copyright Office of the Library of Congress is adopting final regulations for deposit of certain machine-readable copies. The amendments revoke the exemption from mandatory deposit, pursuant to section 407 of the Copyright Act of 1976, of machine-readable copies and require deposit of data and software published in IBM or Macintosh formats for use in the collections of the Library.

EFFECTIVE DATE: October 16, 1989.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559 (202) 707-8380.

SUPPLEMENTARY INFORMATION: On August 9, 1988 (53 FR 29923), the Copyright Office published a notice of proposed rulemaking regarding the adoption of new regulations for deposit of certain machine-readable copies. The Office proposed the repeal of the exemption for works published solely in machine-readable formats from mandatory deposit. Copies secured through mandatory deposit under section 407 of the Copyright Act would

be added to the collections of the Machine-Readable Collections Reading Room.

The Copyright Office received seven comments on the proposed regulation. While some of the comments praised the broad goals of the Machine-Readable Collections Reading Room, all expressed reservations with the proposed regulation as published in the Federal Register.

The Copyright Office has studied carefully the comments that were submitted. For reasons detailed in this announcement, the Copyright Office has adopted as final, the proposed regulation without change. We are republishing as Appendix B the entire Best Edition Statement, including the additional material regarding deposit of machine-readable copies.

1. Background

Under section 407 of the Copyright Act of 1976, title 17 of the United States Code, as originally enacted, the owner of copyright, or of the exclusive right of publication, in a work published with notice of copyright in the United States was required to deposit two copies (or, in the case of sound recordings, two phonorecords) of the work in the Copyright Office for the use or disposition of the Library of Congress. Effective March 1, 1989, the requirement that a work subject to mandatory deposit contain a copyright notice was eliminated. This change was made in Public Law 100-568, the Berne Convention Implementation Act of 1988.

The deposit is to be made within three months after publication in the United States. Failure to make the required deposit does not affect copyright in the

work, but may subject the copyright owner to fines and other monetary liability if the failure is continued after a demand for deposit is made by the Register of Copyrights. As a qualification of these general provisions, section 407 also provides that the Register of Copyrights "may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories."

Relying on this authorization, the Copyright Office, with the approval of the Librarian of Congress, established regulations governing mandatory deposit at 37 CFR Chap. II, §§ 202.19, 202.20, and 202.21. Section 202.19 establishes the standards governing mandatory deposit of published copies and phonorecords for the Library of Congress. Section 202.20 concerns the required deposit when application is made for registration of a copyright claim with the Copyright Office under section 408 of title 17, U.S.C. § 202.21 allows deposit of identifying material in lieu of copies or phonorecords in certain cases. In addition, the Library of Congress published its Best Edition Statement specifying the required deposit in instances where two or more different editions were published.

When these regulations were first promulgated in 1978, machine-readable copies were not widely marketed to the public at large. For this reason, the Library of Congress decided to exempt all works published solely in machine-readable formats from mandatory deposit. For purposes of copyright registration deposit, for such works generally can be satisfied by submitting identifying material comprising the

equivalent of the first and last 25 pages of the source code in the case of a computer program, or the first 25 and last 25 pages of a database.

Since the time these policies were adopted, great changes have occurred. As a result of the popularity of the personal computer, computer software and databases are in wide public demand. In response to these public needs, the Library has established a Machine-Readable Collections Reading Room. The Reading Room provides public access to two categories of important machine-readable copies.

The first category is standard data in microcomputer machine-readable form that traditionally has only been available in print form (encyclopedias, census figures, standard reference publications, etc.). With the development of computer technology, many standard reference materials have become available in whole or in part in machine-readable form. The Library desires to provide patrons access to these machine-readable reference sources.

The second category is computer software in microcomputer machine-readable form. The Library makes software available in the Reading Room for purposes of review and study. The software is not acquired to perform the specific tasks for which the software was created. For this reason, utilizing the software collections of the Reading Room will not serve as a substitute for the purchase of a software package. Preview and study of the software in the Reading Room, however, may influence a researcher's selection of a package for purchase.

The Library is interested additionally in developing its software collections for archival purposes. As a general rule, a software package has a relatively short life. Therefore, acquisition and retention of software in a centralized location is vital for the use of future scholars who wish to study the computer revolution from an historical perspective.

Under the proposed regulation published in the *Federal Register* on August 9, 1988, § 202.19 governing mandatory deposit would be changed in two places. Section 202.19(c)(5) would limit the exemption for machine-readable copies to automated databases available only online. Section 202.19(d) would be modified by adding a new subparagraph (vii) allowing for deposit of only one machine-readable copy, except where a copy-guard system is used. In the latter case, two copies would be required.

In addition to changes in the deposit requirements, the Copyright Office proposed a new section in the Best Edition Statement covering machine-readable copies. IBM and Macintosh formats would be designated as the formats desired by the Library of

Congress. In implementing mandatory deposit for machine-readable copies, the Register would demand only copies of works appearing in the formats designated in the Best Edition Statement.

2. Summary of Public Comments

Seven comments were received on the proposed regulation. Four comments were submitted from trade associations, two comments were received from major computer manufacturers, and one comment was received from a law firm.¹

The Information Industry Association (IIA) criticized the proposed regulation as overbroad, and endorsed, in its place, reliance on a voluntary system. IIA urged that the regulations provide restrictions on the uses patrons could make of machine-readable copies, and asked whether applicable licensing restrictions would be respected. Questions were raised concerning the scope of the exemption for databases available "only online." Finally, IIA asserted that differing deposit requirements for mandatory deposit and copyright registration posed a problem for the industry.

The American Association of Publishers (AAP) criticized the proposed regulation for failing to restrict copying, lending, or electronic dissemination. The AAP suggested that the extent licensing terms commonly applicable to machine-readable works would be respected was also unclear. We were also asked to clarify the applicability of the "online" exemption to works "principally" distributed online. Finally, AAP suggested recasting of the Best Edition Statement.

The Computer Software and Services Industry Association (ADAPSO) doubted that the Library's proposal to prohibit patrons from bringing in diskettes for purposes of downloading would be workable. ADAPSO also questioned whether the support services made available by publishers to licensees would be provided in the Reading Room. ADAPSO contended that the proposed regulation should be tabled in favor of a voluntary program.

The Computer and Business Equipment Manufacturers Association (CBEMA) urged that the proposed regulation be recast to exempt all machine-readable works except IBM and Macintosh formatted material. CBEMA further believed the criteria in the Best Edition Statement should be clarified. Finally, CBEMA suggested a sunset provision in order to permit a Library-industry review of developments concerning the Reading Room.

¹ The law firm held the mistaken belief that the proposed regulation would repeal present registration practices with respect to computer programs. This is not the case.

A major manufacturer of personal computers expressed support for the broad goals of the Reading Room. It urged, however, that the limitations: IBM and Macintosh formats be placed in the regulations. It additionally believed that the criteria specified in the Best Edition Statement were misleading.

Another large manufacturer of computer equipment urged that a voluntary system be established instead of implementing mandatory deposit. It urged the following steps be taken: (1) The regulations provide an exemption for works requiring the utilization of a password; (2) stringent security measures be adopted; (3) the regulation be narrowed to exclude material which can not be used by the Library; and (4) the regulations be simplified as regarding revisions, and harmonized with deposit for registration purposes.

3. Final Regulation on Mandatory Deposit of Machine Readable Copies

a. *Basic decision.* For the first eleven years of the current Copyright Act, the Library of Congress has not exercised the authority to compel deposit of works published only in machine-readable formats.

In order to advance the services of the Machine-Readable Collections Reading Room, however, the Library has determined that it is necessary to implement mandatory deposit at this time. While the commentators have uniformly expressed support for a voluntary system, the Library has attempted through meetings and letters to create a voluntary system and these attempts have not succeeded.

Before publication of the proposed regulation, the Library sponsored a meeting with industry leaders to discuss the activities of the Reading Room. At that meeting industry spokesmen endorsed establishment of a voluntary system. Unfortunately, follow-up letters sent by the Library produced no donations.

Mandatory deposit serves as an important source of acquisition for the Library of Congress. In order to provide effective public service, the Machine-Readable Collection Reading Room must have available copies of significant works. Exercise of the mandatory deposit authority is a logical and reasonable means for securing these materials. In passing the Copyright Act of 1976, Congress clearly intended the Library to exercise its mandatory deposit authority in a reasonable way to enhance the collections of the Library for the good of the public.

Since 1870, copies secured through copyright deposit have augmented collections of the Library of Congress. While under the present copyright law mandatory deposit is not a condition of copyright protection, compliance with

*Error; line should read: "Readable Collections Reading Room must"

demands for mandatory deposit remains an obligation of those who benefit from the copyright system.

Commentators expressed criticisms that the proposed regulations were "overbroad" or "beyond what the Library could use." Commentators also expressed support for greater restrictions on the materials that could be demanded by the Library.

The Copyright Office issues demands only for works desired to be added to the collections of the Library. Demands are not issued for works which are of no use to the Library. As a result, the universe of published works subject to mandatory deposit has always been far greater than the works actually demanded. These policies will be applied to machine-readable copies.

Determination of materials appropriate for acquisition has always been the sole responsibility of the Library. In the fast changing environment of works available in machine-readable formats, narrow-based policies would quickly become obsolete. The Library needs the flexibility to adjust the kinds of formats subject to mandatory deposit in response to changing acquisitions needs. For these reasons the Copyright Office declines to exempt broad categories of machine-readable works from mandatory deposit. Nevertheless, as discussed below, the Library and the Copyright Office reiterate that for the foreseeable future, only IBM and Macintosh formats will be demanded.

By this basic decision to remove the present exemption for works in machine-readable formats, the public receives notice that these formats—except for on-line database not available in disk or other hard-copy formats—are potentially subject to mandatory deposit.

b. Restriction to IBM and Macintosh Formats. The major restriction in the demand policies of the Library with respect to deposit of machine-readable copies is the limitation to IBM and Macintosh formats. This limitation is not expressed in the regulation, however, but rather in the format designations of the Best Edition Statement.

At present, hardware available in the Reading Room limits access to IBM and Macintosh formats. For this reason alone the Library will not proceed with demands for material which can not be utilized by the Reading Room. The Library contemplates securing additional hardware to expand the formats usable by the collections. When this occurs, the Library will amend the Best Edition Statement to expand the designated formats, and the Copyright Office will publish notice of the change in the *Federal Register*. This policy is far more favorable to the depositors than an unqualified regulation.

Commentators expressed support for designating formats in the regulation, but this policy would unduly hamper the Library's ability to acquire copies in the fast-changing environment of machine-readable works. We decline to establish narrow-based regulations which will quickly become obsolete as a result of changes in the computer industry. The alternative would be to remove the present exemption and specify a general deposit standard, such as "disks" as the preferred medium, followed by tape formats, etc. The Library elects, instead, to limit its demands to the narrow formats described in the Best Edition Statement.

c. Restrictions on Uses by Researchers. The Machine-Readable Collections Reading Room has been established by the Library: (1) To provide access for research purposes to data and program software in microcomputer machine-readable form; and (2) to build and maintain a national archive of data and program software in microcomputer machine-readable form.

In order to utilize the collections of the Machine-Readable Collections Reading Room, all potential researchers must register and be interviewed. All machine-readable materials are stored in a secured area, and only staff members handle disks.

In order to protect materials in the collections from copying, the Library does not permit researchers to insert their own disks into the disk drives of the computer. Researchers' use of the machines is closely monitored by staff to ensure that downloading does not occur. The Library has on order special disks that can lock disk drive slots. The securing of these special disks will simplify the monitoring task. Additionally, the Library does not permit the photocopying of computer manuals that accompany deposited copies.

The Machine-Readable Collections Reading Room does not lend machine-readable works, nor participate in interlibrary loans of such material. There is no capability for researchers to transmit materials electronically outside of the Reading Room. All applicable licenses are available for review to inform researchers of user restrictions.

Several commentators urged that restrictions on copying be placed in Copyright Office regulations. Due to the ease of copying, machine-readable works are often the subject of abusive reproduction practices. For this reason, the Library has adopted the aforementioned security measures to ensure that such abuses do not occur within the Library of Congress.

The Library concedes that no system is foolproof. It is important to remember, however, that most machine-readable works are sold without any security † against copying other than legal

prohibitions. Of machine-readable copies distributed by copyright owners, the copies maintained within the collections of the Library of Congress will be among the most secure. The Library is confident that the security measures undertaken in the Reading Room will prevent the collections from becoming a source of access for illegal reproduction activities.

d. The "Only Online" Exemption. Several commentators questioned the scope of the "only online" exemption. Specifically they questioned the status of "hybrid" databases where the database is made available on CD-ROM with software included that provides access to the more up-to-date online version of the database. Additionally, we were asked to clarify whether databases distributed to a small number of vendors for purposes of offering online service would be entitled to claim the exemption.

The Library intends to secure through mandatory deposit machine-readable works which are publicly offered for sale or lease. In the case of "hybrid" databases, the Library will seek deposit of the CD-ROM. Clearly, this is a work which is not "only online." The Library will not demand deposit of the updates available online. However, once the updates are incorporated into a revised CD-ROM, the Library will seek deposit of the revised CD-ROM.

As to databases distributed to a small number of vendors for purposes of offering online service, several considerations are raised. The Library does not anticipate pressing demands where distribution of copies is genuinely restricted to special clients. However, the leasing of copies does constitute publication within the meaning of the copyright law, and works with a high price will naturally have relatively few sales. Decisions in these instances will be made on a case-by-case basis.

e. Machine-Readable Copies Requiring Special Authorization. In the preamble to the proposed regulation, we stated that "the Library does not intend to demand software that requires the utilization of a password or other special authorization." The comment letters revealed that this statement was unclear.

In utilizing the mandatory deposit procedures, the Library intends to acquire copies of material generally offered for sale or lease to the public. Copies that are genuinely restricted to special clients will not be sought. Factors revealing whether a distribution is genuinely restricted are face-to-face dealings and contractual provisions specifically tailored to the requirements of both parties. In instances of restricted distributions, the utilization of secret Ω passwords might be one means for providing security for the software.

† Error; line should read:

"works are sold without any security against copying other than legal

Ω Error; line should read:

"distributions, the utilization of secret"

The existence or nonexistence of passwords will not be a conclusive factor in determining whether a distribution is genuinely restricted. Many mass marketed machine-readable works contain passwords. These passwords are often disclosed in the written documentation accompanying the work. The Library will determine whether a distribution is genuinely restricted on a case-by-case basis.

f. Harmonization of the Deposit Requirements Under the mandatory deposit procedures adopted by the Library, deposit of machine-readable works for registration purposes differs from the deposit required for mandatory deposit. Some of the commentators urged that the Examining Division of the Copyright Office accept machine-readable copies.

The variation stems from the disparate purposes of deposit for registration and for enrichment of the Library's collections. The Examining Division is required to examine for copyrightable authorship. Machine-readable copies are generally unsuitable for this task. The computer code may not be viewable on a computer screen or printed out without utilization of expensive, and often different, hardware. The Examining Division requires human-readable deposits for examination, generally portions of source code. The Machine-Readable Collections Reading Room, on the other hand, can only utilize works in those machine-readable formats for which it has acquired hardware.

The Library has no interest in accessioning many of the computer programs in which claims to copyright have been registered in the Copyright Office. Clearly, unpublished computer programs and those of formats not designated in the Best Edition Statement could not be demanded. Additionally, certain restricted computer programs and software would not be desired by the Reading Room, and the Library will demand deposit of only those selected formats that are compatible with the limited hardware in the Reading Room. As a result, many copyright owners of computer software will never be asked to deposit machine-readable copies.

For those relatively few works that are demanded, the variation in deposit requirements is slight. It is likely, moreover, that any harmonization of the mandatory deposit and registration deposit requirements would result in deposit of both machine-readable and human-readable copies for registration purposes.

Regulatory Flexibility Act

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not

apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress, and is a part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (Title 5, chapter 5 of the U.S. Code, subchapter II and chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.³

List of Subjects in 37 CFR Part 202

Copyright, Computer programs, Y
Mandatory deposit under copyright.

Final Regulations

In consideration of the foregoing, Part 202 of 37 CFR, Chapter II, is amended in the manner set forth below.

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: Copyright Act, Pub. L. 94-553, 90 Stat. 2541 (17 U.S.C. 702).

2. Section 202.19 is amended by revising paragraph (c)(5) and adding a new paragraph (d)(2)(vii) to read as follows:

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

(c)
(5) Automated databases available only online in the United States but not including automated databases distributed only in the form of machine-readable copies (such as magnetic tape or disks, punch cards, or the like) from which the work cannot ordinarily be visually perceived except with the aid of a machine or device, and computerized information works in the nature of statistical compendia, serials, and reference works. Also works published in a form requiring the use of a machine or device for purposes of optical enlargement (such as film, filmstrips,

³ The Copyright Office was not subject to the Administrative Procedure Act before 1976, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e. "all actions taken by the Register of Copyrights under this title (17)," except with respect to the making of copies of copyright deposits). (17 U.S.C. 708(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements

⁴Error; line should read:
"amended (Title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The"

⁵Error; line should read:
" Copyright; Computer Programs;
Mandatory Deposit under Copyright."

slide films and works published in any variety or microform), and works published in visually perceptible form but used in connection with optical scanning devices, are not within this category and are subject to the applicable deposit requirements.

(d)
(2)

(vii) In the case of published computer programs and published computerized information works, such as statistical compendia, serials, and reference works that are not copy-protected, the deposit of one complete copy of the best edition as specified in the current Library of Congress Best Edition Statement will suffice in lieu of the two copies required by paragraph (d)(1) of this section. If the works are copy-protected, two copies of the best edition are required.

3. By adding Appendix B to part 202 as follows:

Appendix B to Part 202—"Best Edition" of Published Copyrighted Works for the Collections of the Library of Congress

The copyright law (title 17, United States Code) requires that copies or phonorecords deposited in the Copyright Office be of the "best edition" of the work. The law states that "The 'best edition' of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes." (For works first published only in a country other than the United States, the law requires the deposit of the best edition as first published.) §

When two or more editions of the same version of a work have been published, the one of the highest quality is generally considered to be the best edition. In judging quality, the Library of Congress will adhere to the criteria set forth below in all but exceptional circumstances.

Where differences between editions represent variations in copyrightable content, each edition is a separate version and "best edition" standards based on such differences do not apply. Each such version is a separate work for the purpose of the copyright law. Σ

The criteria to be applied in determining the best edition of each of several types of material are listed below in descending order of importance. In deciding between two editions, a criterion-by-criterion comparison should be made. The edition which first fails to satisfy a criterion is to be considered of inferior quality and will not be an acceptable deposit. Example: If a comparison is made between two hardbound editions of a book, one a trade edition printed on acid-free paper, and the other a specially bound edition printed on average paper, the former will be the best edition because the type of paper is a more important criterion than the binding.

Under regulations of the Copyright Office potential depositors may request authorization to deposit copies or phonorecords of other than the best edition of

⁴Error; line should read:
"the best edition as first published.)"

^ΣError; line should read:
"work for the purposes of the copyright law"

a specific work (e.g., a microform rather than a printed edition of a serial), by requesting "special relief" from the deposit requirements. All requests for special relief should be in writing and should state the reason(s) why the applicant cannot send the required deposit and what the applicant wishes to submit instead of the required deposit.

I. Printed Textual Matter

A. Paper, Binding, and Packaging:

1. Archival-quality rather than less-permanent paper.
2. Hard cover rather than soft cover.
3. Library binding rather than commercial binding.
4. Trade edition rather than book club edition.
5. Sewn rather than glue-only binding.
6. Sewn or glued rather than stapled or spiral-bound.
7. Stapled rather than spiral-bound or plastic-bound.
8. Bound rather than looseleaf, except when future looseleaf insertions are to be issued. In the case of looseleaf materials, this includes the submission of all binders and indexes when they are part of the unit as published and offered for sale or distribution. Additionally, the regular and timely receipt of all appropriate looseleaf updates, supplements, and releases including supplemental binders issued to handle these expanded versions, is part of the requirement to properly maintain these publications.
9. Slip-cased rather than nonlip-cased.
10. With protective folders rather than without (for broadsides).
11. Rolled rather than folded (for broadsides).
12. With protective coatings rather than without (except broadsides, which should not be coated).

B. Rarity:

1. Special limited edition having the greatest number of special features.
2. Other limited edition rather than trade edition.
3. Special binding rather than trade binding.

C. Illustrations:

1. Illustrated rather than unillustrated.
2. Illustrations in color rather than black and white.

D. Special Features:

1. With thumb notches or index tabs rather than without.
2. With aids to use such as overlays and magnifiers rather than without.

E. Size:

1. Larger rather than smaller sizes. (Except that large-type editions for the partially-sighted are not required in place of editions employing type of more conventional size.)

II. Photographs

A. Size and finish, in descending order of preference:

1. The most widely distributed edition.
2. 8 x 10-inch glossy print.
3. Other size or finish.

B. Unmounted rather than mounted.

C. Archival-quality rather than less-permanent paper stock or printing process.

III. Motion Pictures

A. Film rather than another medium. Film editions are listed below in descending order

of preference.

1. Preprint material, by special arrangement.

2. Film gauge in which most widely distributed.

3. 35 mm rather than 16 mm.

4. 16 mm rather than 8 mm.

5. Special formats (e.g., 65 mm) only in exceptional cases.

6. Open reel rather than cartridge or cassette.

B. Videotape rather than videodisc. Videotape editions are listed below in descending order of preference.

1. Tape gauge in which most widely distributed.

2. Two-inch tape.

3. One-inch tape.

4. Three-quarter-inch tape cassette.

5. One-half-inch tape cassette.

IV. Other Graphic Matter

A. Paper and Printing:

1. Archival quality rather than less-permanent paper.

2. Color rather than black and white.

B. Size and Content:

1. Larger rather than smaller size.

2. In the case of cartographic works, editions with the greatest amount of information rather than those with less detail.

C. Rarity:

1. The most widely distributed edition rather than one of limited distribution.

2. In the case of a work published only in a limited, numbered edition, one copy outside the numbered series but otherwise identical.

3. A photographic reproduction of the original, by special arrangement only.

D. Text and Other Materials:

1. Works with annotations, accompanying tabular or textual matter, or other interpretative aids rather than those without them.

E. Binding and Packaging:

1. Bound rather than unbound.

2. If editions have different binding, apply the criteria in I.A.2-I.A.7, above.

3. Rolled rather than folded.

4. With protective coatings rather than without.

V. Phonorecords

A. Compact digital disc rather than a vinyl disc.

B. Vinyl disc rather than tape.

C. With special enclosures rather than without.

D. Open-reel rather than cartridge.

E. Cartridge rather than cassette.

F. Quadraphonic rather than stereophonic.

G. True stereophonic rather than monaural.

H. Monaural rather than electronically rechanneled stereo.

VI. Musical Compositions

A. Fullness of Score:

1. *Vocal music:*

a. With orchestral accompaniment— i. Full score and parts, if any, rather than conductor's score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to full score only.)

ii. Conductor's score and parts, if any, rather than condensed score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to conductor's score only.)

b. Unaccompanied: Open score (each part on separate staff) rather than closed score (all parts condensed to two staves).

2. *Instrumental music:*

a. Full score and parts, if any, rather than conductor's score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to full score only.)

b. Conductor's score and parts, if any, rather than condensed score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to conductor's score only.)

B. Printing and Paper:

1. Archival-quality rather than less-permanent paper.

C. Binding and Packaging:

1. Special limited editions rather than trade editions.

2. Bound rather than unbound.

3. If editions have different binding, apply the criteria in I.A.2-I.A.12, above.

4. With protective folders rather than without.

VII. Microforms

A. Related Materials:

1. With indexes, study guides, or other printed matter rather than without.

B. Permanence and Appearance:

1. Silver halide rather than any other emulsion.

2. Positive rather than negative.

3. Color rather than black and white.

C. Format (newspapers and newspaper-B formatted serials):

1. Reel microfilm rather than any other microform.

D. Format (all other materials):

1. Microfiche rather than reel microfilm.

2. Reel microfilm rather than microform cassettes. ✓

3. Microfilm cassettes rather than micro-opaque prints.

E. Size:

1. 35 mm rather than 16 mm.

VIII. Machine-Readable Copies

A. Computer Programs

1. With documents and other accompanying material rather than without.

2. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).

3. *Format:*

a. PC-DOS or MS-DOS (or other IBM compatible formats, such as XENIX):

(i) 5¼" Diskette(s).

(ii) 3½" Diskette(s).

(iii) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

b. Apple Macintosh:

(i) 3½" Diskette(s).

(ii) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

B. Computerized Information Works, Including Statistical Compendia, Serials, or Reference Works:

1. With documentation and other accompanying material rather than without.

2. With best edition of accompanying program rather than without.

3. Not copy-protected rather than copy-protected (if copy-protected then with a backup copy of the disk(s)).

βError; line should read:

"C. *Format (newspapers and newspaper-formatted serials):*"

γError; line should read:

"D. *Format (all other materials):*"

δError; line should read:

4. Format

a. PC-DOS or MS-DOS (or other IBM compatible formats, such as XENIX):

(i) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

(ii) 5¼" Diskette(s).

(iii) 3¼" Diskette(s).

b. Apple Macintosh:

(i) Optical media, such as CD-ROM—best edition should adhere to prevailing NISO standards.

(ii) 3¼" Diskette(s).

IX. Works Existing in More Than One Medium

Editions are listed below in descending order of preference.

A. Newspapers, dissertations and theses, newspaper-formatted serials:

1. Microform.

2. Printed matter.

B. All other materials:

1. Printed matter.

2. Microform.

3. Phonorecord.

Dated: August 31, 1989.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 89-23765 Filed 10-13-89; 8:45 am]

BILLING CODE 1410-67-01