

Department of the Interior

Departmental Manual

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Part 454: Copyright

Chapter 1: Use of Copyrighted Material

Originating Office: Office of the Solicitor

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1.1 Purpose and Scope. This chapter prescribes policies and procedures pertaining to the acquisition of rights to reproduce copyrighted material in publications of the Department of the Interior. These policies and procedures apply to the obtaining of necessary rights and releases when any books, pamphlets, articles, maps, photographs, drawings, illustrations, or any other printed matter are to be published, in which copyrighted material is to be reproduced.

1.2 Nature of Copyright. A copyright is a right granted by the Congress of the United States, under authority of the Constitution, to authors for the protection of their original compositions. The right continues for 28 years, may be renewed for another 28 years, and since 1962 rights due to expire have been further continued by several Acts of Congress pending adoption by Congress of a revised Copyright Act providing a new, much extended term of protection. Among the material which may be copyrighted are books, periodicals, lectures, sermons, addresses (including those prepared for oral delivery), dramatic and dramatic-musical compositions, maps, works of art, reproductions of works of art, drawings or plastic works of a scientific or technical character, photographs, prints and pictorial illustrations including prints or labels used for articles of merchandise, motion picture photoplays, and motion pictures other than photoplays. In order that a valid copyright may be held, the law requires, with respect to published works, that a notice of copyright appear on each copy. This consists of the word "Copyright", the abbreviation "Copr", or the Symbol "C" in a circle with the year and the name of the copyright holder appearing on the title page or the page immediately following. In the case of a periodical, the notice appears either on the title page or on the first page of text of each separate number or under the title heading. In maps, works of art, reproductions of works of art, drawings and photographs, the notice may consist of the letter "C" in a circle with the initials or symbol of the copyright holder, provided that in addition his name appears on some accessible portion.

1.3 Liability for Infringement. For another to practice without permission any of the exclusive legal rights granted to a copyright holder, such as copying, reprinting, publishing, translating, or performing or delivering in the case of an oral rendition, is an infringement of the copyright. Where the infringement is unintentional the copyright owner is entitled to recover actual damages as well as the infringer's profits, or at the discretion of the court no more than \$5000 and no less than \$250, depending largely on the type of material infringed, but for

infringement after one has actual notice of the copyright, the recovery may be greater.

1.4 Infringement by the United States.

A. Public Law 86-726 amending 28 U.S.C. 1948, adds a part (b) thereto which provides that when a copyright is infringed by the United States, by a corporation owned or controlled by the United States, or by a contractor, subcontractor, or any person, firm or corporation acting for the Government, and with the authorization and consent of the Government, the only remedy of the copyright holder is by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation as damages for such infringement, including the minimum statutory damages.

B. A Government employee may recover from the Government for violating his copyright, except where he was in a position to order, influence or induce use of the copyrighted work by the Government. However, no copyright owner, or his assignee, has a right of action with respect to any copyrighted work prepared by a person while employed or in the service of the United States, where the work was prepared as part of his official functions, or where Government time, materials, or facilities were used in its preparation.

C. The law provides for a three year statute of limitations for filing copyright infringement actions against the Government.

D. Before any action against the United States has been instituted, the Secretary has the authority to enter into an agreement with the copyright owner, in full settlement and compromise for the damages resulting from the infringement, and to settle the claim administratively out of available appropriations.

1.5 Department Policy. Copyrighted material will not knowingly be incorporated in any publication prepared by or for the Department of the Interior, except with the written consent of the copyright owner, or with the written approval of the Secretary. It is important to note that such permission granted by a copyright owner does not in any way adversely affect the owner's rights. Should the owner refuse a request for free use, then if the copyrighted material is considered essential, the copyright may be licensed for a fee or purchased. Failing either of the latter, and with the approval of the Secretary, the material may be used without permission.

1.6 Procedure.

A. To use copyrighted material without fee, permission may be requested directly from the copyright holder. A letter granting permission over the signature of the copyright owner is sufficient. Since permission to use the copyright without a fee is a favor granted by the holder, the request should be for no greater rights than are actually required.

B. Before action is taken to obtain the use of copyrighted material by licensing for a fee or by purchase, the advice of the Solicitor shall be obtained, by memorandum setting forth the material to be used, the proposed uses to be made, and the proposed fee or price to be paid.

C. Before copyrighted material is used for which permission has been refused entirely, the written approval of the Secretary shall be obtained through the Solicitor.

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