§ 401.24 Application for preclearance.

The representative of a vessel may, on a preclearance form obtained from the Manager, St. Lambert, Quebec, or downloaded from the St. Lawrence Seaway Web site (http://www.greatlakes-seaway.com), apply for preclearance, giving particulars of the ownership, liability insurance and physical characteristics of the vessel and guaranteeing payment of the fees that may be incurred by the vessel. The preclearance application must be received by the St. Lawrence Seaway between 08:00–16:00 hours Monday through Friday excluding holidays and at least 24 hours prior to arrival.

§ 401.39 Preparing mooring lines for passing through.

(a) Winches shall be capable of paying out and heaving in at a minimum speed of 46 m per minute; and

7. In § 401.40, revise paragraph (a) to read as follows:

§ 401.40 Entering, exiting, or position in lock.

(a) Unless directed by the Manager and the Corporation in no vessel shall proceed into a lock in such a manner that the stem passes the stop symbol on the lock wall nearest the closed gates.

§ 401.51 Signaling approach to a bridge.

(b) The signs referred to in subsection (a) are placed at distances varying between 550 m and 2990 m upstream and downstream from moveable bridges at sites other than lock sites.

§ 401.57 Disembarking or boarding.

(c) Persons disembarking or boarding shall be assisted by a member of the vessel’s crew under safe conditions.

10. In § 401.65, revise paragraph (c) to read as follows:

§ 401.65 Communication—ports, docks and anchorages.

(c) Every vessel prior to departing from a port, dock, or anchorage shall report to the appropriate Seaway station its destination and its expected time of arrival at the next check point.
37 CFR 202.3(b)(5). Using this provision, stock photography agencies have registered all the photographs added to their databases within a three-month period when they have obtained copyright assignments from the photographers.

The regulations governing registration of automated databases embodied in machine-readable copies (other than in a CD–ROM format) require deposits that are significantly different than the deposits required in connection with the other regulations for registration of photographs, discussed above. Section 202.20(c)(2)(vii)(D)(5) of the Office’s regulations provides that the applications for database registrations need not be accompanied by a deposit of the entire work, but instead may include identifying material consisting of fifty representative pages or data records marked to show the new material added on one representative day, along with additional identifying information. The deposit accompanying a database registration application thus can consist of a fraction of the copyrightable material covered by the registration. This is stark contrast to the deposit requirements for registration of unpublished collections, for group registrations of published photographs, and for most other forms of copyright registration. Section 202.3(b)(10)(x), which governs the deposit for a group registration of photographs, provides that the deposit shall consist of “one copy of each photograph [to] be submitted in one of the formats set forth in Sec. 202.20(c)(2)(xx).” See also 37 CFR 202.20(c)(1)(i) (“in the case of unpublished works, the deposit shall consist of one complete copy or phonorecord,” a provision that applies to registrations of unpublished collections as well as individual unpublished works).

There is no good reason why a registration should issue for a database consisting predominantly of photographs when the copyright claim extends to the individual photographs themselves unless each of those claimed photographs is actually included as part of the deposit. As the Office said when it announced its regulations on group registration of published photographs:

[The Office rejects the plea of at least one commenter to permit the use of descriptive identifying material in lieu of the actual images. Although the Office had previously expressed a willingness to consider such a proposal, the most recent notice of proposed rulemaking noted that “the Office is reluctant to implement a procedure that would permit the acceptance of deposits that do not meaningfully reveal the work for which copyright protection is claimed.” Deposit of the work being registered is one of the fundamental requirements of copyright registration, and it serves an important purpose. As the legislative history of the Copyright Act of 1976 recognizes, copies of registration deposits may be needed for identification of the copyrighted work in connection with litigation or for other purposes. The ability of litigants to obtain a certified copy of a registered work that was deposited with the Office prior to the existence of the controversy that led to a lawsuit serves an important evidentiary purpose in establishing the [identity] and content of the plaintiff’s work.

Registration of Claims to Copyright, Group Registration of Photographs, 66 FR 37142, 37147 (July 17, 2001) (citations omitted). Moreover, the actual practice with respect to almost all registrations of predominantly photographic databases has in fact been to include all of the photographs in the deposit.

For these reasons, in the recently announced interim regulation establishing a pilot program for online applications for group registration of databases consisting predominantly of photographic authorship, the Office included a requirement that the deposit accompanying such an online application authorship must include the image of each claimed photograph in the database. Interim Rule, Registration of claims of copyright, 76 FR 4072–4076 (January 24, 2011).

In order to conform to the prevailing practice and the Office’s determination of what a reasonable deposit requirement should include, the Office proposes to apply that requirement to deposits accompanying paper applications for group registration of databases consisting predominantly of photographic authorship. The proposed amendment would provide that, for any registration (whether the application is made by paper application or online pursuant to the Interim Regulation) of an automated database consisting predominantly of photographs, the deposit shall include, in addition to the descriptive statement currently required under section 202.20(c)(2)(vii)(D)(5), all of the photographs included in the copyright claim being registered. Identifying material will not constitute a sufficient deposit. As noted above, this conforms with what has in fact been the prevailing practice. The Office also notes that it will, in the future, consider extending this requirement to other types of databases.

Proposed Regulations

In consideration of the foregoing, the Office proposes to amend part 202 of 37 CFR, as follows:

List of Subjects in 37 CFR Part 202

Copyright.

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

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


2. Amend § 202.20 as follows:

a. In paragraph (c)(2)(vii)(D)(5) introductory text by removing “electronically submitted” after “or in the case of”;

b. In paragraph (c)(2)(vii)(D)(8) by removing “submitted electronically” after “case of an application”;

c. In paragraph (c)(2)(xx) introductory text remove “registered with an application submitted electronically under §202.3(b)(5)(ii)(A)” after “and for automated databases that consist predominantly of photographs”.

Dated: January 24, 2011.

Maria Pallante,
Acting Register of Copyrights.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260 and 261


RIN–2050–AE78

Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas; Tentative Determination To Deny Petition for Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of action—tentative determination to deny petition for reconsideration.

SUMMARY: EPA is providing notice of, and soliciting written comments on, a tentative determination to deny an administrative petition submitted by the Sierra Club under RCRA section 7004. EPA issued an earlier notice denying this same petition in November 2008. However, the Agency at that time failed to comply with notice and comment provisions in its regulations. Accordingly, we are now giving the public the opportunity to provide comments on this tentative decision. This petition requests EPA to reconsider the final rule, “Regulation of Oil-Bearing