

SUMMARY: In accordance with the Federal Advisory Committee Act, the Bureau of Indian Affairs is announcing that the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee will hold its second meeting in Seattle, Washington. The purpose of the meeting is to continue negotiations to prepare a report or reports regarding Bureau-funded school facilities as required under the No Child Left Behind Act of 2001.

DATES: The Committee's second meeting will begin at 8:30 a.m. on April 12, 2010, and end at 12 p.m. on April 15, 2010.

ADDRESSES: The meeting will be held at the Hilton Seattle Airport and Conference Center, 17620 International Blvd., Seattle, Washington 98188-4001.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official, Michele F. Singer, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104; telephone (505) 563-3805; fax (505) 563-3811.

SUPPLEMENTARY INFORMATION: The No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee was established to prepare and submit a report or reports to the Secretary of the Interior setting out: a method for creating a catalog of school facilities; a list of school replacement and new construction needs of the interested parties and a formula for equitable distribution of funds to address those needs; a list of major and minor renovation needs of the interested parties and a formula for equitable distribution of funds to address those needs; and facilities standards for home-living (dormitory) situations.

The following items will be on the agenda:

- Review of Committee Operating Procedures, discussion, and approval;
- Review of Committee criteria for decision-making developed in the visioning exercise in January 2010;
- Overview, review, and discussion of key formulas from the FMIS March 2010 Training;
- Small group and subcommittee work: Dormitory Standards, Catalogue/Inventory, and Formula for Repair and Renovation;
- Report back from subcommittee work and discussion;
- Discussion of programmatic requirements and facility issues;
- Discussion of report outline;
- Discussion of formula and approach to new school construction;

- Refinement of options for catalogue and tentative consensus;
- Finalization of subcommittees, logistics, next steps, and other details;
- Assessment of the second meeting; and
- Public comments.

Written comments may be sent to the Designated Federal Official listed in the **FOR FURTHER INFORMATION CONTACT** section above. All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

Dated: March 22, 2010.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

[FR Doc. 2010-7061 Filed 3-26-10; 8:45 am]

BILLING CODE 4310-W7-P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

Gap in Termination Provisions; Inquiry

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of public inquiry; request for comments.

SUMMARY: The Copyright Office is seeking comments regarding the application of Title 17 to the termination of certain grants of transfers or licenses of copyright, specifically those for which execution of the grant occurred prior to January 1, 1978 and creation of the work occurred on or after January 1, 1978. The Copyright Office is seeking comments at this time because the deadlines for serving notices of termination for 1978 grants will begin to expire in 2011 and some stakeholders have raised questions with the Office and some Congressional Offices.

DATES: Initial comments on the Notice of Inquiry and Requests for Comments are due on or before April 30, 2010. Reply comments are due on or before May 14, 2010.

ADDRESSES: The Copyright Office strongly prefers that comments be submitted electronically. A comment page containing a comment form is posted on the Copyright Office Web site at <http://www.copyright.gov/docs/termination>. The Web site interface requires submitters to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browse button. To meet accessibility standards, all comments must be uploaded in a single file in either the Adobe Portable

Document File (PDF) format that contains searchable, *accessible* text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The maximum file size is 6 megabytes (MB). The name of the submitter and organization should appear on both the form and the face of the comments. All comments will be posted publicly on the Copyright Office Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Copyright Office at 202-707-1027 for special instructions.

FOR FURTHER INFORMATION CONTACT:

Maria Pallante, Associate Register, Policy and International Affairs, by telephone at 202-707-1027 or by electronic mail at mpall@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Act gives authors (and some heirs, beneficiaries and representatives who are specified by statute) the right to terminate certain grants of transfers or licenses, subject to the passage of time set forth in the statute and the execution of certain conditions precedent.

Termination rights (also referred to as "recapture rights") are equitable accommodations under the law. They allow authors or their heirs a second opportunity to share in the economic success of their works. Codified in sections 304(c), 304(d) and 203 of Title 17, respectively, they encompass grants made before as well as after January 1, 1978 (the effective date of the 1976 Copyright Act). (The provisions do not apply to copyrights in works made for hire or grants made by will.)

This inquiry concerns a narrow set of facts that some authors and their representatives have brought to the attention of the Copyright Office and some Congressional Offices. Specifically, the Office is interested in whether or how the termination provisions apply in circumstances where the grant was executed prior to January 1, 1978, but the work was created on or after January 1, 1978. For such works, there appears to be some confusion and possible disagreement among some stakeholders as to whether termination rights are exercisable in the first place and, if they are, which statutory provision applies. In seeking comments, the Office is aware that termination rights may only be exercised during the window of time specified by statute and the deadlines

for grants made in 1978 will begin to expire next year.

Termination provisions provide authors with a long-term insurance policy on the value of their copyrights. The House Report accompanying the 1976 Copyright Act states that the provisions are “needed because of the unequal bargaining position of authors, resulting in part from the impossibility of determining a work’s value until it has been exploited.” H.R. Rep. No. 94–1476, at 124 (1976). Termination rights are put in motion by serving notice on the grantee. The notice must state the effective date of the termination and must be served on the grantee not less than two or more than ten years before that date. 17 U.S.C. 304(c)(4)(A); 304(d)(1); 203(a)(4)(A). The Register of Copyrights, through regulations, has set forth additional core elements that must be included in the notice, among them a statement as to whether termination is being made under section 304(c), 304(d) or 203. 37 CFR 201.10(b)(1)(i) and (b)(2)(ii).

Section 304 (c) governs older works, specifically works in which a copyright was subsisting in its first or renewal term as of January 1, 1978. It provides for termination of the exclusive or nonexclusive grant of a transfer or license of the renewal copyright (or any right under it) executed before January 1, 1978. Termination may be exercised at any time during a five-year period beginning at the end of fifty-six years from the date copyright was originally secured. Section 304(d) governs a smaller subset of pre-78 works for which the termination right under section 304(c) expired (and was not exercised) on or before the effective date (October 27, 1998) of the “Sonny Bono Copyright Term Extension Act,” which extended copyright terms by 20 years. It provides for termination of the exclusive or nonexclusive grant of a transfer or license of the renewal copyright (or any right under it) at any time during a five-year period beginning at the end of 75 years from the date copyright was originally secured.

Section 203 governs grants made under the “new law.” It provides for termination of the exclusive or nonexclusive grant of copyright (or any right under copyright) executed on or after January 1, 1978 (regardless of whether the copyright was secured prior to or after 1978). Termination may be exercised at any time during a period of five years beginning at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever is earlier. Unlike section 304, the termination right in

section 203 applies only to grants executed by authors. Section 203 terminations may be exercised as of January 1, 2013, provided notice has been served no less than two years prior.

Once the notice is served, a copy of the notice must be recorded with the Copyright Office prior to the effective date of termination. 17 U.S.C. 304(c)(4)(A); 304(d)(1); 203(a)(4)(A). Upon receipt of the notice, the Copyright Office undertakes a review of certain facts, including whether the notice has been executed in a timely manner. Because lateness is a fatal mistake¹ under the law, the Office reserves the right to refuse recordation of a notice of termination if, in the judgment of the Office, such notice of termination is untimely.² 37 CFR 201.10(f)(4).

Subject of Inquiry

The Copyright Office seeks comment on the question of whether and how Title 17 provides a termination right to authors (and other persons specified by statute) when the grant was made prior to 1978 and the work was created on or after January 1, 1978. For purposes of illustration, please note the following examples:

Example 1: A composer signed an agreement with a music publisher in 1977 transferring the copyrights to future musical compositions pursuant to a negotiated fee schedule. She created numerous compositions under the agreement between 1978 and 1983, some of which were subsequently published by the publisher-transferee. Several of these achieved immediate popular success and have been economically viable ever since. The original contract has not been amended or superseded.

Example 2: A writer signed an agreement with a book publisher in 1977 to deliver a work of nonfiction. The work was completed and delivered on time in 1979 and was published in 1980. The book’s initial print run sold out slowly, but because the author’s subsequent works were critically acclaimed, it was released with an updated cover last year and is now a best seller. The rights remained with the publisher all along and the original royalty structure continues to apply.

¹ By contrast, the regulations provide accommodations for certain harmless errors. 37 CFR 201.10(e)(1)–(2).

² If a document is submitted as a notice of termination after the statutory deadline has expired, the Office will offer to record the document as a “document pertaining to copyright” pursuant to § 201.4(c)(3), but the Office will not index the document as a notice of termination. Whether a document so recorded is sufficient in any instance to effect termination as a matter of law shall be determined by a court of competent jurisdiction.

Questions

In order to better understand the application of sections 304(c), 304(d) and 203 to the grants of transfers and licenses discussed above, the Copyright Office seeks comments as follows:

A. Experience. Please describe any experience you have in exercising or negotiating termination rights for pre-1978 grants of transfers or licenses for works that were created on or after January 1, 1978.

B. Interpretation. Are the grants of transfers or licenses discussed above terminable under Title 17 as currently codified? If so, under which provision? What is the basis for your determination? Are there state or federal laws other than copyright that are relevant? Is delivery of the work by the grantor to the grantee relevant to the question of termination? Is publication relevant?

C. Recommendations. Do you have any recommendations with respect to the grants of transfers or licenses illustrated above?

D. Other Issues. Are there other issues with respect to the application or exercise of termination provisions that you would like to bring to our attention for future consideration?

Dated: March 24, 2010.

Marybeth Peters,

Register of Copyrights, U.S. Copyright Office.

[FR Doc. 2010–6936 Filed 3–26–10; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0526; FRL–9130–9]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision to Control Volatile Organic Compound Emissions in the Houston/Galveston/Brazoria 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a revision to the Texas State Implementation Plan (SIP). The revision adds additional requirements to control volatile organic compound (VOC) emissions from storage tanks, transport vessels and marine vessels in the Houston/Galveston/Brazoria (HGB) 1997 8-hour ozone nonattainment area, which consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty,