

5 FAM 480

USE OF COPYRIGHTED MATERIAL

(TL:IM-46; 12-05-2003)
(Office of Origin: IRM/BPC/RG)

5 FAM 481 GENERAL POLICY

(TL:IM-46; 12-05-2003)

a. There is no general license for Federal agencies to copy and disseminate, whether in printed, audio, video, or electronic form, (including facsimile transmission and electronic mail) copyrighted material. In addition to paper publications, copyright materials include non-printed material such as microfilm, software, sound recordings, video films or tapes, and Internet items. The purchase of subscriptions to periodicals, special reports, digital video discs, video tapes or sound recordings, and other copyrighted materials does not carry authority to copy and/or disseminate those materials. Most materials donated to the Department's inventory have been provided under limited conditions, generally not including the right to copy. Under copyright law (Title 17 of the United States Code), the "fair use" doctrine (see 5 FAM 484 below) permits, under limited circumstances, the copying of small portions of copyrighted material for certain purposes.

b. The holders of copyrights are entitled to compensation for articles and other copyrighted materials copied by the Federal Government, beyond that permissible under the "fair use" doctrine, unless the holders grant permission for the use. The Department of State expects its employees to comply with the copyright law just as with any other applicable law. Specific guidance for video clubs (6 FAM 538) and off-the-shelf software (5 FAM 841.4) supplements guidance below on "fair use."

c. The Office of *Public Affairs and Public Diplomacy* in the Department's Office of the Legal Adviser (*L/PA*) is available to answer any specific questions concerning copyright law (see 5 FAM 483.2, *Resources*).

5 FAM 482 OBTAINING LICENSES

(TL:IM-23; 05-15-1997)

a. Many publishers of copyrighted material, who do business with the Federal Government, may be willing to negotiate licenses that would allow copying in the volumes necessary to meet information needs of the Department. Offices can contact the publishers directly using information contained in the copyrighted material. The Department's Library has

resources which contain information on publishers, including their addresses. Another option for obtaining licenses is through:

Copyright Clearance Center (CCC)
222 Rosewood Drive
Danvers, Massachusetts, 01923
(508) 750-8400 FAX (508) 750-4744

b. The Copyright Clearance Center is currently able to grant permission to photocopy almost two million publications for over nine thousand publishers worldwide. The CCC charges an annual service fee plus whatever the publisher sets as the royalty fee that is applied per page and/or article that is being copied.

c. Department bureaus and offices, with a need to copy and disseminate significant quantities of copyrighted material, should ensure that privately copyrighted reprints in a Government publication be so noted in order that the public not be misled (Title III, 17 of the Government Printing and Binding Regulations). In addition, Department bureaus and offices should consult with their executive office to determine if there are any unique bureau policies and procedures to follow for obtaining licenses. Posts abroad with direct subscriptions may make such arrangements through their administrative officers.

5 FAM 483 INTERNATIONAL COPYRIGHT

5 FAM 483.1 Policy

(TL:IM-23; 05-15-1997)

The United States has obligations, under bilateral and/or multilateral treaties and agreements, to protect copyrighted works of foreign authorship. The United States extends copyright protection to other members of the World Trade Organization, the Berne Convention, and the Universal Copyright Convention. It has also negotiated a number of bilateral agreements that obligate each party to provide copyright protection to works of authorship originating in the other party. Taken together, these obligations extend to nearly all foreign countries, with only a handful of exceptions. Copyrighted materials originating in foreign countries with which the United States has such obligations should be accorded the same treatment as U.S. works.

5 FAM 483.2 Resources

(TL:IM-23; 05-15-1997)

Bureaus, offices, and posts may contact EB/TPP/MTA/IPC for further information on whether works of nationals of a particular country are protected in the United States under U.S. copyright law.

5 FAM 484 FAIR USE

(TL:IM-23; 05-15-1997)

The copyright law provides that “fair use” may be made of copyrighted works for such purposes as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research. Factors to consider in determining “fair use” are:

- The nature of the copyrighted work;
- The amount and substantiality of the portion used;
- The purpose and character of the use; and
- The effect of the use on the potential market for, or value of the copyrighted work.

5 FAM 485 THROUGH 489 UNASSIGNED