



Copyright Office

37 CFR Part 201

[Docket No. 2026-4]

Exemptions to Permit Circumvention of Access Controls on Copyrighted Works

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notification of inquiry and request for petitions.

SUMMARY: The United States Copyright Office is initiating the tenth triennial rulemaking proceeding under the Digital Millennium Copyright Act (“DMCA”) to determine whether to recommend temporary exemptions to the DMCA’s prohibition against circumvention of technological measures that control access to copyrighted works. The Office is accepting petitions for renewal of current exemptions and petitions for new exemptions, and will subsequently accept comments in response to renewal petitions.

DATES: Written petitions for new exemptions and written petitions for renewal of current exemptions must be received no later than 11:59 p.m. Eastern Time on August 24, 2026. Written comments in response to petitions for renewal must be received no later than 11:59 p.m. Eastern Time on September 28, 2026.

ADDRESSES: Written petitions for renewal of current exemptions must be completed using the form provided on the Copyright Office’s website at <https://www.copyright.gov/1201/2027/renewal-petition>. Written petitions proposing new exemptions must be completed using the form provided on the Office’s website at <https://www.copyright.gov/1201/2027/new-petition>. The Office is using the [regulations.gov](https://www.regulations.gov) system for the submission and posting of public petitions and comments in this proceeding. All petitions and comments are therefore to be submitted electronically through [regulations.gov](https://www.regulations.gov). Specific instructions for submitting petitions and

comments are available on the Office’s website at <https://www.copyright.gov/1201/2027>.

If electronic submission is not feasible, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Rhea Efthimiadis, Assistant to the General Counsel, by email at USCOGeneralCounsel@copyright.gov or telephone at (202) 707-8350.

SUPPLEMENTARY INFORMATION:

I. Section 1201

Section 1201 of title 17, United States Code, prohibits the circumvention of technological measures that effectively control access to a copyrighted work.¹ The statute directs the Librarian of Congress, on the recommendation of the Register of Copyrights after consultation with the Assistant Secretary for Communications and Information of the Department of Commerce, to determine every three years whether to adopt temporary three-year exemptions to that prohibition.²

For an exemption to be granted, users of a copyrighted work must establish that they “are, or are likely to be in the succeeding 3-year period, adversely affected by the [anti-circumvention] prohibition . . . in their ability to make noninfringing uses under [title 17] of a particular class of copyrighted works.”³ In evaluating the evidence, several statutory factors must be weighed: “(i) the availability for use of copyrighted works; (ii) the availability for use of works for nonprofit archival, preservation, and educational purposes; (iii) the impact that the prohibition on the circumvention of technological

¹ Pub. L. No. 105–304, 112 Stat. 2860 (1998) (enacting 17 U.S.C. 1201).

² 17 U.S.C. 1201(a)(1)(C). The Assistant Secretary serves as the Administrator of the National Telecommunications and Information Administration. *Office of the Assistant Secretary*, National Telecommunications and Information Administration, <https://www.ntia.gov/office/office-assistant-secretary-oas> (last visited May 29, 2026). The triennial rulemaking addresses only the prohibition on circumvention of access controls; the statute does not grant authority to adopt exemptions to the anti-trafficking provisions of sections 1201(a)(2) or 1201(b). 17 U.S.C. 1201 (a)(1)(B), (a)(1)(E). The statute also provides permanent exemptions to the prohibition. *Id.* at 1201(d)–(j) (listing permanent exemptions for circumstances involving, for example, encryption research and nonprofit libraries, archives, and educational institutions).

³ 17 U.S.C. 1201(a)(1)(C).

measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research; (iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and (v) such other factors as the Librarian considers appropriate.”⁴

To assess whether the implementation of access controls impairs the ability of individuals to make noninfringing uses of copyrighted works, the Copyright Office (“Office”) solicits exemption proposals from the public and develops a comprehensive administrative record using information submitted by interested parties.⁵ Based on that record, the Register provides a written recommendation to the Librarian concerning which exemptions are warranted. The recommendation includes proposed regulatory text for adoption and publication in the *Federal Register*.

This notice initiates the tenth triennial proceeding.

II. Overview of the Rulemaking Process

The section 1201 triennial rulemaking proceeds in phases. Each phase has a distinct purpose and calls for different types of submissions. Participants should submit material appropriate to each phase. Late filed submissions in *any* phase of the rulemaking, including amendments or supplements thereto, may not be accepted without a showing of good cause, and their acceptance is subject to the Office’s discretion.⁶

Consequently, participants should timely file their complete petitions—using the appropriate form—and comments. Informational guides explaining section 1201 and the

⁴ *Id.*

⁵ See H.R. Rep. No. 105-796, at 64 (1998) (Conf. Rep.) (“It is the intention of the conferees that . . . the Register of Copyrights will conduct the rulemaking, including providing notice of the rulemaking, seeking comments from the public, consulting with the Assistant Secretary for Communications and Information of the Department of Commerce and any other agencies that are deemed appropriate, and recommending final regulations in the report to the Librarian.”); see also H.R. Rep. No. 106-464, at 149 (1999) (Conf. Rep.) (“[T]he Copyright Office shall conduct the rulemaking under section 1201(a)(1)(C) . . .”).

⁶ See, e.g., Register of Copyrights, Section 1201 Rulemaking: Ninth Triennial Proceeding to Determine Exemptions to the Prohibition on Circumvention, Recommendation of the Register of Copyrights 20 n.72 (2024), https://www.copyright.gov/1201/2024/2024_Section_1201_Registers_Recommendation.pdf (“[T]he Register has no obligation to consider untimely comments.”).

rulemaking process can be found on the Office’s section 1201 rulemaking webpage at <https://www.copyright.gov/1201>.

Petition Phase

During the petition phase, the Office accepts petitions for exemptions to the section 1201 prohibition on circumventing access controls. The Office accepts two types of petitions: (1) those proposing new exemptions, including proposals to expand a current exemption, and (2) those proposing renewal of current exemptions that were granted during the ninth triennial proceeding.⁷ After receipt of petitions, the Office accepts comments regarding renewal petitions.

This notification of inquiry initiates the petition phase. The Office asks the public to:

1. Submit petitions to renew current exemptions;
2. Submit petitions to propose new exemptions; and
3. Submit any comments in opposition to or in support of renewal petitions.

Petitions for new exemptions and petitions for renewal of current exemptions are due on Monday, August 24, 2026.⁸ Comments in response to a renewal petition are due on Monday, September 28, 2026.

The petition phase identifies which exemptions should be considered in this proceeding and resolves the renewal of exemptions without meaningful opposition through a streamlined process. In this initial phase of the rulemaking, documentary evidence is acceptable accompanying renewal petitions and comments on those petitions. It is not the phase for full legal and evidentiary submissions on proposals for new

⁷ Since the seventh triennial proceeding, the Office has used a streamlined process to consider the renewal of previously adopted exemptions. 88 FR 37486, 37487 (June 8, 2023) (“2023 NOI”). Through this process, members of the public may petition for renewal of temporary exemptions—requesting the readoption of exemptions that were granted during the previous rulemaking to remain in force for an additional three-year period.

⁸ The Office is modifying the timing of the administrative process for the tenth triennial rulemaking by aligning submission deadlines for both types of written petitions. Comments on renewal petitions are due one month later.

exemptions, which will be solicited during the public comment phase, described below. Detailed requirements for each type of submission are set forth in sections III through IV, below.

Public Comment Phase

After reviewing the petitions and renewal comments, the Office will publish a notice of proposed rulemaking (“NPRM”). The NPRM will identify the exemptions the Register intends to recommend for renewal, organize proposed new exemptions into classes for consideration, and describe the legal and factual issues on which the Office seeks public comment.⁹

The NPRM initiates the second phase, which includes three rounds of written public comments regarding the petitions for new exemptions and any meaningfully opposed renewal petitions.¹⁰ This is the phase during which the substantive record is built. In the first round of comments, proponents and supporters of exemptions should present their complete affirmative case, including complete legal and evidentiary support. Those who neither support nor oppose a proposal may also comment with pertinent information. The second round is limited to those who oppose a proposed exemption; these comments should present the full basis for opposition, including complete legal and evidentiary support. The third round is limited to reply comments from those permitted to comment in the first round, addressing arguments and evidence raised in prior rounds.¹¹ Newly raised issues and evidence are not permitted in the third round of comments or in any subsequent phase.

⁹ See 2023 NOI at 37489 (discussing the Office’s purpose behind grouping similar proposals together, but stating that any grouping “serve[s] as a starting point for further consideration in the rulemaking proceeding and [is] subject to further refinement”).

¹⁰ See *infra* section VI (discussing notice of proposed rulemaking).

¹¹ See 88 FR 72013, 72026–27 (Oct. 19, 2023) (“2023 NPRM”).

Public Hearings Phase

After the public comment phase, the Office will hold virtual public hearings. The hearings will focus on unresolved issues material to proposed exemptions that the Office finds unclear or underdeveloped in the written record, and may include the opportunity to introduce demonstrative evidence. Participants should not use the hearings to present new arguments or evidence.

Following the hearings, the Office may direct written questions to specific participants to discuss discrete issues in the proposed classes, including suggestions regarding regulatory language.¹² Responses are voluntary and will be posted as part of the public record. *Ex parte* communications with the Office regarding this proceeding are subject to the Office's regulations, and permitted only after the hearings, during the period specified in the NPRM.¹³

Register's Recommendation and Librarian's Final Rule

The Office analyzes the complete administrative record.¹⁴ Following consultation with National Telecommunications and Information Administration, the Register issues her written recommendation to the Librarian of Congress as to which exemptions are warranted.¹⁵ The recommendation includes proposed regulatory text for adoption as a final rule. The Librarian, after consideration of the Register's recommendation, adopts a final rule announcing any exemptions.¹⁶

¹² See 2023 NOI at 37489; *Post-Hearing Questions*, U.S. Copyright Office, <https://www.copyright.gov/1201/2024/post-hearing> (last visited May 29, 2029).

¹³ 37 CFR 201.1(d), 205.24; *Ex Parte Communications*, U.S. Copyright Office, <https://www.copyright.gov/1201/2024/ex-parte-communications> (last visited May 29, 2026).

¹⁴ The administrative record may also include submissions from other parts of the federal government. See *Letters Between the U.S. Copyright Office and Other Agencies*, U.S. Copyright Office, <https://www.copyright.gov/1201/2024/USCO-letters/> (last visited May 29, 2026); U.S. Copyright Office, Section 1201 of Title 17 150–51 (2017), <https://www.copyright.gov/policy/1201/section-1201-full-report.pdf>.

¹⁵ 89 FR 85437, 85438–45 (Oct. 28, 2024) (final rule).

¹⁶ *Id.* at 85445–50.

III. Process for Seeking Renewal of Current Exemptions

The tenth triennial proceeding will use the streamlined process to facilitate the renewal of previously adopted exemptions where no meaningful opposition is offered.¹⁷

A renewal petition requests the readoption of a current exemption based on an attestation that the prior rulemaking record remains a reliable basis.

Scope of Renewal

Only petitions requesting renewal of current exemptions as currently written in the *Code of Federal Regulations*, without modification, may be considered under the streamlined renewal procedure. Accordingly, a petitioner may not use a renewal petition to request *new* language or exempted activities for a current exemption. To the extent a renewal petition includes such requests, it shall be considered solely as a renewal petition. A petitioner seeking to expand the scope of a current exemption may submit both a petition to renew the existing exemption and a separate petition for a new exemption that focuses on facts relevant to the proposed expansion.¹⁸

Reconsideration as New Petition

If the Office declines to recommend renewal of a current exemption, we will consider the renewal petition as a petition for a new exemption during the public comment phase. If a proponent petitions both to renew an existing exemption and to expand its scope, and the Office declines to recommend renewal, we will treat the expansion petition as a new petition covering the original exemption and the proposed exemption together. Evidence must then be submitted during the public comment phase to develop the substantive record.

¹⁷ See 2023 NOI at 37487 & n.17 (providing a more detailed background on the introduction and use of the streamlined renewal process beginning with the seventh triennial rulemaking, based upon the Office's conclusion in its 2017 Section 1201 of title 17 Study that temporary exemptions may be renewed based upon evidence drawn from prior proceedings if the evidence remains reliable to support granting an exemption in the current proceeding).

¹⁸ See *infra* section V (discussing the process for seeking new exemptions including the evidentiary standard for the description of the new exemption). If the Office recommends renewal of the current exemption, we will consider only the discrete aspects relevant to expansion as a new petition.

Petition Form and Contents

Parties seeking renewal of a current exemption must submit the required form, available on the Office's website at <https://www.copyright.gov/1201/2027/renewal-petition>, and they must follow the instructions contained in this notice and on the petition form. This form is for renewal petitions only. Proponents seeking renewal of multiple exemptions must submit a separate form for *each* exemption.

The renewal petition form has four components:

1. Petitioner identity and contact information. Each petitioner (*i.e.*, the individual or entity seeking renewal) must provide its name, representative (if any), and contact information. Any member of the public capable of making the sworn declaration described below may submit a petition for renewal, regardless of whether they participated in past rulemakings. Multiple petitioning parties may jointly file a single petition.

2. Identification of the current exemption that is the subject of the petition. The form lists all exemptions currently in effect and codified at 37 CFR 201.40. Petitioners must mark the appropriate checkbox for the exemption they seek to renew.

3. Explanation of need for renewal. The petitioner must provide a brief explanation summarizing the basis for claiming a continuing need and justification for the exemption. The required showing is meant to be minimal. The Office anticipates that one or two paragraphs will be sufficient, although there is no page limit. For longstanding exemptions where petitioners have filed highly similar renewal petitions in prior proceedings, petitioners in this cycle may want to provide contemporary evidence of the ongoing need and support for the exemption.¹⁹ Supporting documentary evidence may be attached to the petition but it is not necessary.

¹⁹ See, e.g., 2023 NPRM at 72016 n.35 (“The Office notes that petitioners have filed highly similar renewal petitions in the 2018 and 2021 rulemaking proceedings, testifying generally that Profession Buster has

4. *Declaration and signature.* One named petitioner must sign a declaration attesting to the continued need for the exemption and the truth of the supporting explanation. The declaration must be based on the petitioner’s personal knowledge and experience relevant to the exemption sought to be renewed. Where the petitioner is an entity, the declaration must be signed by an individual with appropriate personal knowledge to make the declaration and authority to sign on behalf of the entity. The declaration may be signed electronically.

The declaration also requires an affirmation that, to the best of the petitioner’s knowledge, there has not been any material change in the facts, law, or other circumstances in the rulemaking record that resulted in the exemption being issued initially.²⁰ By “material change,” the Office means a significant change in the underlying conditions that justified the exemption when it was first granted, such as legal precedent that led the Register to conclude that a use was likely noninfringing, or factual circumstances that demonstrated individuals could not engage in a noninfringing use due to the statutory prohibition on circumvention. The attestation serves as evidence that the Office can continue to rely on the prior rulemaking record and that, absent renewal of the exemption, users of copyrighted works would be adversely affected in their ability to engage in noninfringing uses.

IV. Comments in Response to a Petition to Renew an Exemption

Any interested party may submit comments in response to a renewal petition, in support or opposition. The purpose of these comments is to identify whether the prior rulemaking record remains a reliable basis for renewal. The Office will not provide a form; the first page of submitted comments must clearly identify which exemption’s

continued to work on her e-book series *without additional specifics about work or progress*. If petitioners seek renewal in future proceedings, the Office suggests that they provide additional information about Professor Buster’s progress or point to other individuals relying on the exemption.” (emphasis added and citations omitted)).

²⁰ Depending on when the exemption was originally recommended by the Office, the relevant rulemaking record may be discussed in the 2015, 2018, 2021, or 2024 Register’s Recommendation.

renewal is being addressed. Each submission must address only a single exemption, but participants may submit multiple comments to address multiple exemptions.²¹

The Office will not recommend renewal of a current exemption under the streamlined procedure if it receives comments showing “meaningful opposition.”

Meaningful opposition may be satisfied with “evidence that the prior rulemaking record is no longer a valid basis to support recommending renewal of an exemption.”²²

Specifically, evidence should consist of new legal or factual developments that address “the reliability of the previously-analyzed administrative record”²³—for example, a change in case law affecting whether a particular use is noninfringing, new technological developments affecting the availability for use of copyrighted works, or new business models affecting the market for or value of copyrighted works. The Office may also consider whether opposition evidence casts doubt only as to renewal of part of a current exemption.

Conclusory opinions and speculation are insufficient for the Office to refuse to recommend renewing an exemption. Opposition comments should not opine on unrelated issues, such as whether proponents have engaged in “every possible use covered by an exemption” or “whether any user’s activities may or may not be consistent with the exemption” as codified.²⁴ The sole purpose of the streamlined renewal proceeding is to determine whether petitioners have made a minimal showing that the regulatory record

²¹ If a single exemption receives multiple renewal petitions, commenters may respond to all of them in a single submission.

²² 2023 NOI at 37488. In the prior rulemaking cycle, the Office used this terminology to illustrate the “meaningful” opposition standard that it utilized in the seventh and eighth triennial rulemaking. *See id.* at 37488 n.20.

²³ *See* 85 FR 65293, 65295 (Oct. 15, 2020) (finding renewal opposition not meaningful where it questioned the sufficiency of the argument by renewal petitioners that the record remained unchanged, but did not provide affirmative evidence of new legal or factual developments that implicate the reliability of the previously-analyzed administrative record). Opponents may also explain if a petitioner has failed to comply with the renewal process outlined above (such as because the petitioner lacks personal knowledge or experience relevant to the exemption sought to be renewed).

²⁴ *Id.* at 65296–97.

that supported a previously issued exemption remains representative of the current environment.²⁵ It is not a forum to litigate other concerns.

V. Process for Seeking New and Expanded Exemptions

Petitions for new exemptions cover activities not currently permitted by any existing exemption, including those that would expand the scope of a current exemption. Petitioners seeking new exemptions must file their petition using the required form, available on the Office’s website at <https://www.copyright.gov/1201/2027/new-petition>, and must follow the instructions contained in this notice and on the petition form. A party seeking multiple exemptions must submit separate petition forms for each proposed exemption.

The new petition form has two components:

1. Petitioner identity and contact information. The form asks each petitioner (*i.e.*, the individual or entity proposing the exemption) to provide its name, representative (if any), and contact information. Multiple petitioning parties may file jointly.

2. Description of the proposed exemption. Petitioners must briefly explain the nature of the proposed new exemption. The information most helpful to the Office includes: (1) the types of copyrighted works sought to be accessed; (2) the physical media or devices on which the works are stored or the services through which the works are accessed; (3) the purposes for which the works are sought to be accessed; (4) the types of users who want access; and (5) existing or anticipated barriers preventing these users from obtaining access to the relevant copyrighted works.

The description may be minimal. Petitioners do not need to propose regulatory language or fully define the contours of an exemption class. A short statement in plain

²⁵ *Id.* at 65297–98 (finding proponents had made “minimal showing” required for renewal and concluding that, given a lack of opposition, “the conditions that led to adoption of this exemption are likely to continue during the next triennial period”).

terms describing the nature of the activities in which petitioners seek to engage is sufficient.

The complete legal and evidentiary basis for proposals for new exemptions should not accompany petitions; these submissions will be solicited during the public comment phase initiated by the NPRM. The purpose of the petition is to provide the Office with basic information about what uses of copyrighted works petitioners believe are adversely affected by the statutory prohibition on circumvention.

VI. Notice of Proposed Rulemaking

After reviewing the petitions and the comments on renewal petitions, the Office will issue an NPRM addressing all of the potential exemptions to be considered in the rulemaking. The Register will not at this phase reject any petitioned-for exemption unless it fails to meet the threshold requirements of section 1201(a).²⁶

The NPRM will set forth which exemptions the Register intends to recommend for renewal, along with proposed regulatory language. It will also identify any exemptions the Register declines to recommend for renewal due to an insufficient showing in the renewal petition or evidence of meaningful opposition. Those petitions will be treated as new petitions, requiring a new administrative record.

For new exemptions, the NPRM will organize the proposals into classes, grouping related or overlapping ones where possible to simplify the rulemaking process and encourage joint participation among parties with common interests. The NPRM classes are “only a starting point for further consideration in the rulemaking proceeding,” and will be subject to “further refinement based on the record.”²⁷ As in previous rulemakings, the NPRM will not “put forward precise regulatory language for the proposed classes.”²⁸

²⁶ See 79 FR 73856, 73859 (Dec. 12, 2014) (noting that three petitions sought an exemption which could not be granted as a matter of law and declining to put them forward for comment).

²⁷ 2023 NOI at 37489 (quoting 79 FR 73856, 37402).

²⁸ *Id.*

The NPRM will highlight specific legal and factual issues the Office finds particularly important for each proposed class; commenters should address these issues in their public comments. It will contain additional instructions and requirements for submitting comments and will detail the subsequent public hearings phase, including any post-hearing questions and *ex parte* meetings.

The Office generally expects to follow a similar timeframe for issuance of the NPRM and submission of comments as we did in the ninth rulemaking.²⁹

Dated: June 5, 2026.

Maria Strong,
*Director of Policy and International Affairs and
Associate Register of Copyrights.*

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²⁹ In the previous rulemaking, the NPRM was published on October 19, 2023, initial comments supporting new exemptions were due on December 22, 2023, opposition comments were due on February 20, 2024, and reply comments were due on March 19, 2024. 2023 NPRM at 72014.