



Petition for New Exemption Under 17 U.S.C. § 1201

Please submit a separate petition for each proposed exemption.

Note: Use this form if you are seeking to engage in activities not currently permitted by an existing exemption. If you are seeking to engage in activities that are permitted by a current exemption, instead of submitting this form, you may submit a petition to renew that exemption using the form available at <https://www.copyright.gov/1201/2018/renewal-petition.pdf>.

If you are seeking to expand a current exemption, we recommend that you submit both a petition to renew the current exemption, and, separately, a petition for a new exemption using this form that identifies the current exemption, and addresses only those issues relevant to the proposed expansion of that exemption.

ITEM A. PETITIONERS AND CONTACT INFORMATION

Please identify the petitioners and provide a means to contact the petitioners and/or their representatives, if any. The “petitioner” is the individual or entity proposing the exemption.

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Privacy Act Advisory Statement: Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office website and use by Copyright Office staff for purposes of the rulemaking proceeding conducted pursuant to 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this application. Please keep this statement and refer to it if we communicate with you regarding this petition.

ITEM B. DESCRIPTION OF PROPOSED NEW EXEMPTION

Provide a brief statement explaining the nature of the proposed new or expanded exemption. The information that would be most helpful to the Office includes the following, to the extent relevant: (1) the types of copyrighted works that need 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 need to be accessed; (4) the types of users who want access; and (5) the barriers that currently exist or which are likely to exist in the near future preventing these users from obtaining access to the relevant copyrighted works.

Petitioners need not propose precise regulatory language or fully define the contours of an exemption class. Rather, a short, plain statement describing the nature of the activities the petitioners wish to engage in will be sufficient, as proponents will have the opportunity to further refine or expound upon their initial petitions during later phases of the rulemaking. The Office anticipates that in many cases petitioners will be able to adequately describe in plain terms the relevant information in a few sentences, or even a single sentence, as with the examples below.

Examples:

A proposed exemption for owners of 3D printers to circumvent technological protection measures on firmware or software in 3D printers to run the printers' operating systems to allow use of non-manufacturer-approved feedstock.

A proposed exemption for computer programs in tractors that use lockout codes to prevent farmers from repairing broken tractor parts.

A proposed expansion of the current exemption for motion pictures (including television programs and videos) for uses in documentary films. The expansion sought is to cover lawfully obtained copies of motion pictures contained on Blu-ray discs.

A proposed exemption for access to aircraft flight, operations, maintenance and security data captures by computer programs or firmware. The digital avionics systems lock out access to collected aircraft flight, operations, maintenance and cyber security data necessary to comply with flight safety, maintenance and cyber security regulations and to maintain the safe and secure operation of an aircraft.

The DMCA has been used in the Aviation Industry to prevent access to aircraft flight, operations, maintenance and cyber security data to all by the manufacturers of the avionics equipment collecting the data from an aircraft, or prevent access to third parties without payment of a licensing or analysis fee. Air Informatics seeks an exemption from the DMCA for the purpose of complying with federal regulations through the gathering, storage and analysis of the data on behalf of the aircraft owner or operator. The use includes data analysis for flight safety and cyber security compliance.

FAA National Policy, rules and regulations require operators to obtain, store, analyze data to ensure flight safety and guarantee the safety of the aircraft. The intent is to gain access to the aircraft, avionics and systems data collected during the operation and maintenance of the aircraft and or data that would indicate that a cyber security intrusion or attempted compromise event has occurred and the prevention of a threat to the aircraft, passengers and general public.

Data would be available upon authorization of the aircraft owner or operator by wireless data transfer from an on-board storage medium, or collected on a portable storage medium for transfer.

Aviation, aircraft, aviation engineering and security professionals and third parties would use the data.

The data is in a digital form structured in the form of files or continual read out data.

The data currently uses Technical Protection Methods to prevent access to the data. Access to the wireless link or physically access to the aircraft is only done with permission of the aircraft owner or operator.

The inability to access the data through the use of technical protective means has an adverse effect on safety, security and compliance with federal regulations. The access and fair use of the data is non-infringing. Significant adverse effect shall result without access to the data, including the owner and operation to store and archive the data to meet federal regulations, the use of the data for security, operational, and security research, and teaching, the market, business competitiveness, flight, maintenance, operations, safety and cyber security.
