

## **A Discussion of the AMS Copyright Policy**

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### **1. Introduction**

Despite our best attempts to make the AMS Copyright Policy (*Bull. Amer. Meteor. Soc.*, **83**, 613B617) clear and understandable, the fact that copyright law is complicated (especially in light of the emerging electronic publishing technologies) means that the policy probably did not answer all the questions and concerns of those who are impacted by it. We hope to address at least some of those unanswered questions and concerns in this less formal document by expanding the discussion of some topics and using examples of how copyright law and the AMS Copyright Policy affect the use of AMS publications. Although this document may still not answer all questions, we sincerely hope that AMS members and others who use AMS publications will contact the authors of this discussion at AMS Headquarters for clarification of any issues that may arise. The authors of this discussion may be contacted by phone at 617-227-2425, fax (617-742-8718), or e-mail (kseitter@ametsoc.org or mw Weston@ametsoc.org).

This discussion represents the current thinking regarding how the AMS Copyright Policy will be implemented and practiced. While we hope that this discussion provides guidance to authors and users of AMS publications, it has not been approved by the AMS Council and should not be viewed as overriding or superseding the AMS Copyright Policy. This document is not intended to constitute legal advice, but is only intended to inform AMS members and others of copyright issues pertaining to AMS publications.

### **2. Copying and "fair use"**

In some cases, copying for personal, educational, or research use is covered under what is called the "fair use" doctrine of copyright law. This is a complicated doctrine of law that is constantly evolving as new case law emerges. Accordingly, it is not possible in this brief discussion to provide significant guidance on what type of copying is or is not allowed under the "fair use" doctrine. The AMS supports the general philosophies espoused by the Association of Research Libraries (ARL) concerning the appropriate role that fair use plays in education and research. In general, the AMS supports the interpretation provided in the working document "Fair Use in the Electronic Age: Serving the Public Interest," prepared by the American Association of Law Libraries, American Library Association, Association of Academic Health Sciences Library Directors, Association of Research Libraries, Medical Library Association, and Special Libraries Association (see <http://www.arl.org/info/frn/copy/fairuse.html>). This and other documents pertaining to copyright are available on the ARL Web site (<http://www.arl.org>).

With respect to copying that does not fall clearly under the "fair use" doctrine, there are several ways in which the necessary permission can be obtained, and AMS has tried to make the permission granting process as convenient as possible. If the copying is being done by a copy center (either within a university or commercially), the most convenient method for obtaining

permission for copying is through the Copyright Clearance Center (CCC). Most copy centers have standing accounts with CCC and can obtain permission quickly and easily. While the AMS does not charge for copying done at university copy centers for faculty, the CCC does charge a small fee for the permission processing. Commercial copy centers that prepare course packets and sell them to students are charged \$0.02 per page (a portion of which comes back to AMS as a royalty) plus a processing fee by CCC. A faculty member who wants to make the copies personally for his or her students or who wants to avoid the CCC's processing fee, can send a request for permission to AMS Headquarters by mail to 45 Beacon Street, Boston, MA 02108-3693, fax (617-742-8718), or e-mail ([copyright@ametsoc.org](mailto:copyright@ametsoc.org)). AMS staff will respond requests as quickly as possible and provide written permission that can be used by the faculty member to assure the copy center that permission for the copying has been granted.

For all other forms of copying, the fees listed on the inside cover of the AMS journal or on individual articles apply. The CCC can be used to obtain permission and will collect those fees as part of the permission granting process. As with educational copying, alternative permission arrangements can be sought directly from AMS.

### **3. E-print servers**

The posting of manuscripts and articles on the World Wide Web has become quite common. The AMS Copyright Policy explicitly provides permission to authors to post their published articles on their own personal home page. The policy, however, does not allow a copy of an AMS copyrighted work to be placed on a non-AMS server in any other way. For example, published articles cannot be posted as part of a collection on a so-called "e-print" server.

An author can post his or her work prior to the transfer of the copyright to the AMS, but we urge authors to protect their intellectual property prior to its formal publication. If an author chooses to post his or her work on an e-print server prior to its acceptance and copyright transfer to the AMS, the AMS strongly recommends that the author choose a server that includes a notice similar to the notices provided in sections 5 or 7 of the AMS Copyright Policy. It should be noted that once a work is posted on an e-print server, the policy provides for a continuity of access by the scientific community to an electronic copy of the work and allows the entity or individual operating the e-print server to maintain a copy of the work during the publication process even after copyright has been transferred to the AMS. After formal publication of the work by the AMS, the entity or individual operating the e-print server must substitute a link for the actual copy of the article.

There are Web servers that provide a listing of uniform resource locators (URLs) as links to documents posted on other servers, often arranged by subject matter or some other organizational scheme. Since Web links are treated as citations under the AMS Copyright Policy, a server containing a collection of links is permitted (provided it does not reproduce the table of contents of an AMS publication or create a compilation of AMS copyrighted works; see section 4 of the AMS Copyright Policy). Thus, while the work itself cannot be posted on an e-print server, the policy permits posting of a summary of the article (such as the abstract) with a link to the article on the AMS Journals Online site (<http://ams.allenpress.com>).

Creating links to the definitive version on the AMS Journals Online site is very straightforward since the URL pointing to the article is constructed from keywords and

information in the reference citation itself. The AMS Journals Online site provides examples of how to link to the abstract, full-text version, or PDF version under the link entitled “How to link to this site.” AMS encourages external links to the AMS Journals Online to be made to the abstract since this portion of the article is available to all and provides additional links to the full text and PDF versions (for which subscription is required for all but *Bulletin* articles).

The intent of this portion of the AMS Copyright Policy is to provide for the posting of articles on the Internet so that they can be accessed by the scientific community while attempting to ensure that the community will have access to the definitive work. The authors can have confidence that the scientific community is accessing accurate versions of a particular work because the work has been obtained directly from AMS as the definitive copy or from the author's own home page.

#### **4. Using someone else’s material in your own work**

It is common for an author to reproduce a figure from a previously published article or monograph in a paper he or she is writing. If the figure originally appeared in an AMS publication, then the permission to use “figures, tables, or *brief* excerpts” stated in the AMS Copyright Notice provides the necessary permission and the author need take no further action other than including the complete citation for the original publication. If the figure originally appeared in a non-AMS publication, the author must determine what sort of permission is necessary and secure that permission prior to using the figure, table, or other material in his or her manuscript. Most non-profit scientific and professional societies provide for the use of figures, tables, and brief excerpts in a manner similar to the AMS. Some publishers, however, require written permission. It is the author’s responsibility to obtain this permission. If written permission is required, the author must provide the AMS with a copy of the written permission obtained from the copyright owner.

#### **5. Rights retained by authors**

When an author's work is accepted for publication by the AMS, the copyright for that work must be transferred to the AMS. Having the AMS own the copyright in a work helps to ensure the continuing availability of the work not only through its original publication but also through later derivative works that might be produced by the AMS, or by other publishers (for example, a CD-ROM of the contents of a journal or a monograph made up of collected papers on a subject). It also provides a mechanism for the AMS to preserve the scientific integrity of the original work and helps ensure that proper attribution is given the original author(s) in all future uses. While the AMS owns the copyright in a work, the author retains other specific rights to his or her work. As stated explicitly on the copyright transfer form signed by all authors, the authors retain all other proprietary rights, if any exist, such as patent rights. Additionally, as provided in the policy, the author may reuse any portion of the work for personal use in future lectures, press releases, or reviews without the need to request permission from the AMS provided that the author acknowledges that the work has been published by the AMS and that the AMS holds the copyright. The AMS also grants permission to the author to reuse portions of the work, such as figures, tables, or portions of text, in future publications without the need to request specific

permission from the AMS for each individual instance.

The AMS Copyright Policy also grants to the author the right to disseminate his or her work electronically through the Web. If an author chooses to, he or she may post a copy of the publication on the author's personal home page as long as the AMS copyright notice is included (see section 1 of the AMS Copyright Policy). For a paper with multiple authors, each author may post a copy of the work on his or her personal home page. Since some editing of manuscripts takes place by the AMS prior to publication, including changes made by authors in page proofs, the final published version of an article will slightly differ from the final accepted work that the author may have retained as an electronic file available for posting. Therefore, the author(s) may download and post the PDF version of their article that is made available on the AMS Journals Online site. The AMS Copyright Policy defines the final published article as the "definitive copy" and suggests a notice indicating this be included in any electronic copy posted by an author (see section 9 of the AMS Copyright Policy).

## **6. The copyright transfer and certification forms: knowing which form to use**

The AMS copyright transfer and certification forms are available on the AMS Web site at (<http://www.ametsoc.org/AMS>) in the "Authors' Resource Center" pages, and are also printed on the last page of the December print issues of AMS journals. There are three different forms. The first form entitled "Copyright Transfer" provides for the signatures of authors indicating transfer of the copyright of the subject work to the AMS on acceptance for publication. The second form, entitled "Certification of U.S. Government Work," provides for the signatures of authors who are employees or officers of the U.S. government and whose work was created as part of his or her official duties and thus not subject to copyright.

It has become common practice for authors who are government employees to sign the certification form and all other authors to sign the transfer form. In reality, even government employees should often sign the transfer form providing transfer of the copyright to the AMS. In general, the second "Certification" form should only be signed by authors who are official government employees and who have created the subject work as part of his or her "official duties." A government employee who prepares a manuscript on a subject completely separate from his or her regular duties (for example, a review or article of historical nature) should not sign the government form even if some or all of the work was done at the government facility during regular working hours.

It should be pointed out that when an article is declared a "work of the U.S. Government" it is not simply that copyright in such work cannot be transferred to the AMS, but rather, that the work is declared public domain and no copyright protection exists for it at all. Despite numerous articles published each year in AMS journals that have been declared U.S. Government works by the authors, the AMS attempts to carry on its role of steward of the authors' intellectual property for these articles by trying to ensure that the scientific integrity of the work is preserved in any reuse and that proper attribution is given to the original authors.

Works produced by government employees in their official capacity in some countries are governed by Crown copyright. In this case, the copyright cannot be transferred to the AMS, but broad permission can be provided to the AMS. A special form covering this situation is available in the "Authors' Resource Center" on the AMS Web site.

## **7. Conclusions**

Copyright law has always been and will continue to be a complicated subject, and most scientists do not want to learn any more about it than is absolutely necessary. Some scientists have even questioned the need for copyright at all. For decades, however, copyright law has fostered an environment in which publishers such as the AMS can broadly distribute scientific results while protecting the intellectual property contained in these works. The current debate over how copyright fits into the world of pervasive electronic dissemination of information, and several recent copyright cases involving scientific and educational copying, have focused attention on copyright issues and forced us all to be more aware of how copyright fits into our activities. We hope that the AMS Copyright Policy and this less formal discussion of copyright issues provide a framework for that greater awareness as well as guidelines for compliance.