

determines that the likely benefits exceed the costs of preparing an application.

We believe that the final priorities and requirements will not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the proposed action. That is, the length of the applications those entities would submit in the absence of this final regulatory action and the time needed to prepare an application would likely be the same.

This final regulatory action would not have a significant economic impact on a small entity once it receives a grant because it will be able to meet the costs of compliance using the funds provided under this program.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

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Danté Allen,

Commissioner, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services.

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201 and 202

[Docket No. 2023–8]

Group Registration of Updates to a News Website

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

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is creating a new group registration for frequently updated news websites. This option will enable online news publishers to register a group of updates to a news website as a collective work with a deposit composed of identifying material representing sufficient portions of the work, rather than the complete contents of the website. The final rule is nearly identical to the provisions set forth in the January 2024 notice of proposed rulemaking, with one modification in response to public comments and one to reflect a technical change in the process for submitting these claims.

DATES: Effective July 22, 2024.

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

SUPPLEMENTARY INFORMATION:

I. Background

The Copyright Act authorizes the Register of Copyrights to specify by regulation the administrative classes of works for the purpose of registration and the deposit required for each class.¹ In addition, Congress gave the Register the discretion to allow registration of groups of related works with one application and one filing fee.² This procedure is known as “group registration.”³ Pursuant to this authority, the Register has issued several regulations permitting group registrations for certain types of works,

including newspapers, newsletters and serials, unpublished works, unpublished and published photographs, contributions to periodicals, secure test items, works on an album of music, short online literary works, and database updates.⁴

This rulemaking expands the available group registration options because of several factors specifically impacting news websites. Along with receiving requests from online publishers, the Office observed the increase in news content offered online and the dynamic nature of such material.⁵ It also reviewed stakeholder comments in prior proceedings that discussed the challenges associated with registering online news content, including those submitted in response to its 2022 *Copyright Protections for Press Publishers* report.⁶ Finally, the Office acknowledged the deposit challenges associated with websites, particularly news websites, in its 2011 publication titled *Priorities and Special Projects of the United States Copyright Office (October 2011–October 2013)*.⁷

On January 3, 2024, the Office published a Notice of Proposed Rulemaking (“NPRM”) to establish a new group registration option for frequently updated news websites.⁸ The proposed rule would allow an applicant to register a news website as a collective work (including any individual component works it fully owns, such as literary works, photographs, and/or graphics)⁹ with a deposit composed of identifying material, rather than the complete contents of the website. The proposed rule would also allow registration of the news website and any updates published within one calendar month, if the deposit evidences a sufficiently creative selection, coordination, or arrangement within each collective work to constitute a copyrightable compilation.¹⁰ Each

⁴ *Id.* at 202.3(b)(5), 202.4(c)–(k), (o).

⁵ See 89 FR 311, 311–12 (Jan. 3, 2024).

⁶ U.S. Copyright Office, Copyright Protection for Press Publishers (June 2022), <https://copyright.gov/policy/publishersprotections/202206-Publishers-Protections-Study.pdf>.

⁷ See 89 FR 311, 312.

⁸ *Id.* at 311. The final rule defines a “news website” as “a website that is designed to be a primary source of written information on current events, either local, national, or international in scope, that contains a broad range of news on all subjects and activities and is not limited to any specific subject matter.” 37 CFR 202.4(m)(1)(i).

⁹ Because the Office will not examine each component work within the collective work, the copyright claimant bears the burden of proving that it owns the individual component works claimed in the submission.

¹⁰ A “collective work” is a type of compilation. See 17 U.S.C. 101. A “compilation” is “a work

¹ 17 U.S.C. 408(c)(1).

² *Id.*

³ See generally 37 CFR 202.3(b)(5), 202.4.

collective work must have been created as a work made for hire, with the same person or entity named as both the author and copyright claimant. The proposed rule stated that applicants would be required to submit their claims through the online copyright registration system, using the application currently in use for a group of newspaper issues.¹¹

The Office received twenty comments in response to the NPRM.¹² All but one¹³ supported the Office's proposal to create the new group registration option, though the majority requested various modifications. Two commenters, however, expressly conditioned their support on substantive changes to the rule, which would substantially change its scope.¹⁴ In general, commenters were interested in expanding eligibility for this option to a greater number of works and changing the deposit requirement. Proposals included revising the definition of "news website," removing the work made for hire and author/claimant requirements, increasing the time limitation for updates to the news website, clarifying the "home page" deposit requirement, and asking the Office to confirm the scope of remedies for copyright infringement of a collective work.¹⁵ Finally, one commenter encouraged the Office to "identify opportunities for

formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship." *Id.*

¹¹ As noted in the NPRM, "in appropriate circumstances, the Office may waive the online filing requirement, subject to the conditions the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose." 89 FR 311, 316 n.55.

¹² The Office also received a letter from several organizations reflecting their collective support for finalizing the rulemaking in a timely manner and in-line edits to the Office's proposed regulatory language. Letter from Ass'n of Am. Publishers et al. to Suzanne Wilson, Gen. Counsel and Assoc. Register of Copyrights (Apr. 4, 2024), <https://www.copyright.gov/rulemaking/newswebsite/Association-of-American-Publishers-et-al%E2%80%93Letter-to-Copyright-Office.pdf>.

¹³ See Am. Ass'n of Independent Music, Ass'n of Am. Publishers, Inc. and Recording Industry Ass'n of Am., Inc. ("A2IM, AAP, & RIAA") Comment at 2 ("Commenters express no position on the primary focus of the NPRM—whether the Office should create a new group registration option for frequently updated news websites—or on the details of how such an option should be implemented.").

¹⁴ See generally Nat'l Writers Union, Nat'l Press Photographers Ass'n, Nat'l Ass'n of Sci. Writers ("NWU, NPPA, & NASW") Comment; Gordon Firemark 2 Comment.

¹⁵ A handful of commenters also proposed that the Office should adopt the NPRM immediately, as an interim rule. See, e.g., Copyright All. Comment at 11; Nat'l Pub. Radio ("NPR") Comment at 3–5; News Media All. ("NMA") Comment at 2.

improvement" and to remain "adaptive to technological changes."¹⁶

Having reviewed and carefully considered each of the comments, the Office now issues a final rule that is nearly identical to the proposed rule, with one modification reflecting concerns raised by some commenters regarding the "home page" deposit requirement and one modification concerning the application form for this option. These modifications are discussed in more detail below. With respect to requests that we received to expand the scope of the rule, the Office will closely monitor how the new group option performs, including the number and complexity of the claims submitted, the amount of time needed to examine these claims, and the modest filing fee for this option. The Office remains open to revisiting these issues in the future based on this rule's performance.

II. Final Rule

A. Eligibility Requirements

1. Works That May Be Included in the Group

In the NPRM, the Office proposed to limit this group registration option to updates to a "news website," defined as "a website that is designed to be a primary source of written information on current events, either local, national, or international in scope, that contains a broad range of news on all subjects and activities and is not limited to any specific subject matter." As described in the NPRM, the proposed rule stems from the rapid development and predominance of news websites over print newspapers,¹⁷ and requests from news publishers for a feasible way to register "newspaper websites" that are "updated frequently."¹⁸ Thus, the proposed rule is an extension of the existing group newspaper option that has been available for decades.¹⁹ Consistent with the *Compendium of U.S. Copyright Office Practices*, the

¹⁶ Am. Bar Ass'n Section of Intell. Prop. L. ("ABA–IPL") Comment at 4.

¹⁷ 89 FR at 311–12 (noting that "[m]ore than eight in ten Americans get news from digital devices, and, as of 2021, more than half prefer digital platforms to access news").

¹⁸ *Id.* (citing Newspaper Association of America Comments at 12–18, Submitted in Response to July 15, 2009 Notice of Proposed Rulemaking, Mandatory Deposit of Published Electronic Works Available Only Online, U.S. Copyright Office Dkt. No. 2009–3 (Aug. 31, 2009) (emphasis omitted), <https://www.copyright.gov/rulemaking/online-only/comments/naa.pdf>).

¹⁹ 37 CFR 202.4(e). The Office's definition of newspapers is based on the Library of Congress's collection policy definition. Library of Congress, Collections Policy Statements: Newspapers—United States 1 (Sept. 2023), <https://www.loc.gov/acq/devpol/neu.pdf>.

proposed rule defines a "website" as "a web page or set of interconnected web pages that are accessed using a uniform resource locator ("URL") organized under a particular domain name." A number of commenters encouraged the Office to expand the type of works eligible under the rule and recommended revisions to both definitions.

i. Constitutional Challenge

Before turning to the requests to expand the rule, the Office addresses the argument made by a small number of commenters that the proposed group registration option would violate the First Amendment by limiting the option to a particular type of work. In a joint comment, NWU, NPPA, and NASW stated that restricting the option to "news" websites constitutes "[c]ontent-based discrimination," which they considered "[c]onstitutionally suspect and subject to strict scrutiny" that the rule "cannot meet."²⁰ In support of this argument, they cited *Arkansas Writers Project v. Ragland*, 481 U.S. 221 (1987), which reviewed a state sales tax scheme that taxed general interest magazines, but exempted newspapers and religious, professional trade, and sports journals. Because Arkansas "advanced no compelling justification for selective, content-based taxation of certain magazines," the Supreme Court held the tax scheme invalid under the First Amendment.²¹ Analogizing the tax scheme in *Arkansas Writers Project* to the proposed registration option, NWU, NPPA, and NASW argued that the exclusion of any web content that does not meet the "news website" definition is unconstitutional.²²

Aligned with NWU, NPPA, and NASW, another commenter, Gordon Firemark, contended that, by limiting the group option to updates to news websites, the proposed rule "excludes other types of content from [its] benefits" and denies content creators "relief from the burdens of the current system."²³ He argued that recent Supreme Court precedent concerning trademark registration requires a content-neutral approach.²⁴

The Office disagrees with these arguments. It is correct that the Supreme Court has held that content-based laws—laws restricting or compelling

²⁰ NWU, NPPA, & NASW Comment at 12–13; Gordon Firemark 2 Comment (asserting that "the proposed regulation is not Content Neutral, as required under the First Amendment").

²¹ *Arkansas Writers Project*, 481 U.S. at 234.

²² NWU, NPPA, & NASW Comment at 12–13.

²³ Gordon Firemark 2 Comment.

²⁴ *Id.* (citing *Iancu v. Brunetti*, 139 S. Ct. 2294 (2019), and *Matal v. Tam*, 582 U.S. 218 (2017)).

speech based on its communicative content—are presumptively unconstitutional,²⁵ and subject to strict scrutiny, under which the government must show that the law is the “least restrictive means” of advancing a “compelling” governmental interest.²⁶ A regulation can be content-based “on its face,” if its text applies to speech based on the subject matter, topic, or viewpoint of that speech. It can also be content-based if it has a discriminatory purpose that “cannot be justified without reference to the content of the regulated speech” or was “adopted by the government because of disagreement with the message” conveyed.²⁷ However, a regulation that places “a differential burden on speakers is insufficient by itself to raise First Amendment concerns.”²⁸ The tax scheme in *Arkansas Writers Project* was found to violate these principles by being directed at particular subjects, thus targeting a small group within the press.²⁹ That is not the case here.

The Office’s proposed group registration option is not analogous to the unconstitutional tax statute in *Arkansas Writers Project* for multiple reasons. First, the option does not restrict or compel speech based on its communicative content. Nor does it favor or disfavor particular topics or subjects, or exclude a small group of the press.³⁰ Instead the option is available for updates to news websites that contain a broad range of topics regardless of the content of the speech involved.

Second, the registration option is viewpoint neutral and operates not as a restriction on speech, but as a condition for qualifying for one of many options available to register copyrights, including online websites and other publications. The Standard Application is available to any type of author for any type of work within the statutory categories.³¹ Group registration options are discretionary accommodations offered by the Office in a number of areas. Currently, the Office administers ten group options covering unpublished

works, short online literary works, works on an album of music, serials, newspapers, newsletters, contributions to periodicals, published and unpublished photographs, automated databases, and secure test items.³² For online publications, group serials and group newsletters are other registration options for publications that fall outside of the “newspaper” or “news website” definitions.

The Supreme Court’s recent ruling in a case involving trademark regulations supports the Office’s view. There the Court reviewed a rule of the U.S. Patent and Trademark Office (“USPTO”) barring the registration of trademarks that use the names of particular living individuals without their written consent.³³ The Court held that this bar, though content-based, is viewpoint neutral and does not violate the First Amendment.³⁴ The Court noted that while its precedents “distinguish between content-based and content-neutral regulations of speech,”³⁵ they further distinguish “a particularly ‘egregious form of content discrimination’—viewpoint discrimination,” which targets not merely a subject matter, “but particular views taken by speakers on a subject.”³⁶ The Court identified “[s]everal features of trademark [law]” that “counsel against a *per se* rule of applying heightened scrutiny to viewpoint-neutral, but content-based trademark regulations.” Most notably, it found that “trademark rights have always coexisted with the First Amendment, despite the fact that trademark protection necessarily requires content-based distinctions.”³⁷ Accordingly, the Court held that USPTO’s “content-based, but viewpoint-neutral, trademark restriction [] is compatible with the First Amendment.”³⁸

Similarly, copyright registration, and the broad administrative classification authority Congress granted to the Register, necessarily requires content-based distinctions. Indeed, since its passage in 1976, the Copyright Act has authorized the Register “to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration” and to permit “for particular classes, the deposit of identifying material instead

of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works.”³⁹ Like the USPTO’s name bar, these administrative distinctions are not based on the particular views taken by authors and have always coexisted with the First Amendment. The addition of an administrative classification for this new group registration option, which adopts near-identical criteria for determining “news” content to that of the existing group option for newspapers, is “a matter of policy and discretion”⁴⁰ fully compatible with the First Amendment.

Further, unlike the viewpoint-based trademark provisions held unconstitutional for barring registration of scandalous or disparaging marks,⁴¹ the Office’s viewpoint-neutral administrative classification does not bar registration for non-news content or websites. Quite the opposite: to increase participation in the registration system, the Office has created several group options for the registration of works that are published online.⁴² The Standard Application also remains available to any type of author for any type of work within the statutory categories. This rule does not prevent anyone’s ability to register non-news works.

ii. News Website Limitation

Multiple commenters urged the Office to expand the rule’s definition of “news website” by removing the condition that the website must contain news on all subjects and activities.⁴³ In encouraging

³⁹ 17 U.S.C. 408(c)(1) (emphasis added).

⁴⁰ *Leathers*, 499 U.S. at 452 (quoting *Regan v. Taxation with Representation*, 461 U.S. 540, 549 (1983)).

⁴¹ See Gordon Firemark 2 Comment (citing *Iancu v. Brunetti*, 139 S. Ct. 2294 (2019), and *Matal v. Tam*, 582 U.S. 218 (2017)).

⁴² See, e.g., 85 FR 37341, 37345 (June 22, 2020) (final rule for group registration of short online literary works); 83 FR 61546, 61546–48 (Nov. 30, 2018) (final rule for group registration of newsletters and serials); 82 FR 29410, 29410–11 (June 29, 2017) (final rule for group registration of contributions to periodicals).

⁴³ See ABA–IPL Comment at 2; Am. Intell. Prop. L. Ass’n (“AIPLA”) Comment at 1 (“We encourage the Office to reconsider [the definition of ‘news website’] and clarify the final clause—‘not limited to any specific subject matter’—which could be construed as excluding news websites with an industry-specific focus (e.g., wired.com), and thus unnecessarily limiting access to this group registration option.”); Copyright All. Comment at 4 (“We urge deletion of the phrase ‘. . . on all subjects and activities and is not limited to any specific subject matter’ in the proposed rule”); Harvard Bus. Publ’g (“HBP”) Comment; Nat’l Ass’n of Broad. (“NAB”) Comment at 3; NWU, NPPA, & NASW Comment at 12–13; NMA Comment at 8; The Authors Guild Comment at 2; see also Letter from Ass’n of Am. Publishers et al.

²⁵ *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

²⁶ *Sable Commc’ns of Cal. v. FCC*, 492 U.S. 115, 126 (1989).

²⁷ *Reed*, 576 U.S. at 164 (internal quotes omitted).

²⁸ *Leathers v. Medlock*, 499 U.S. 439, 452–53 (1991) (citing *Mabee v. White Plains Publ’g Co.*, 327 U.S. 178 (1946), and *Oklahoma Press Publ’g Co. v. Walling*, 327 U.S. 186 (1946)).

²⁹ *Arkansas Writers Project*, 481 U.S. at 229 (finding the tax scheme impermissibly targets a small group of the press because “the magazine exemption means that only a few Arkansas magazines pay any sales tax”).

³⁰ *Arkansas Writers Project*, 481 U.S. at 229–30.

³¹ 37 CFR 202.3(b)(2)(i)(A).

³² See generally *id.* at 202.4.

³³ *Vidal v. Elster*, No. 22–704, slip op. at 1 (2024).

³⁴ *Id.*

³⁵ *Id.* at 4 (2024) (quoting *National Institute of Family and Life Advocates v. Becerra*, 585 U.S. 755, 766 (2018)).

³⁶ *Id.* (2024) (quoting *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995)).

³⁷ *Id.* at 6.

³⁸ *Id.* at 12.

the Office “not to exclude . . . specialized websites,” the ABA–IPL noted that the “proposed rule may provide especially meaningful benefit to smaller news websites—including those that focus on certain ‘specific subject matter.’”⁴⁴ HBP argued that “websites, like HBR.org, that focus on a particular area of news . . . still face the same registration problems afflicting all news websites.”⁴⁵ The Authors Guild also expressed concern that the rule would exclude more specialized news publications, such as those that focus on political news. It argued that “these publications clearly qualify as news websites under any ordinary understanding of that term.”⁴⁶ Relatedly, commenters claimed that content restrictions “put[] examiners in an untenable position of deciding what is or is not ‘news.’”⁴⁷ Finally, four commenters asked the Office to abandon the “news website” definition and extend the group option “to any periodically-produced content distributed through the internet.”⁴⁸

After considering this request and in the interest of implementing this final rule as quickly as possible, the Office declines to revise the definition at this time. As an extension of the newspaper group option, the “news website” definition is modeled on the Office’s longstanding regulation defining a “newspaper” as a publication that is “mainly designed to be a primary source of written information on current events, either local, national, or international in scope,” that “contains a broad range of news on all subjects and activities and is not limited to any specific subject matter.”⁴⁹ This definition is very broad and it is intended to “make any newspaper eligible for a group registration.”⁵⁰ It is also intended to distinguish a “newspaper” from a “newsletter,” which is defined elsewhere in the regulations as a publication that contains “news or information that is chiefly of interest to a special group, such as trade and professional

associations, colleges, schools, or churches.”⁵¹

Under this definition, newspapers are aimed at any member of the general public who may be interested in newsworthy information or events that are reported on a given day.⁵² By applying a similar definition to websites, the final rule recognizes that “news websites” are also intended to have universal appeal.

This definition would encompass news websites that cover current events and provide information on diverse topics, including some political websites like those identified in the Authors Guild’s comment.⁵³ Although these sites focus primarily on issues involving politics and events with political implications, they do not limit their coverage to a particular subject matter nor are they directed at narrow or discrete groups of readers.⁵⁴

The Office also disagrees with commenters that the “news website” eligibility requirement places a burden on examiners. Indeed, the definitions for “news website” and “newspaper” are similar, in part, to enable consistent application of both rules. Examiners are accustomed to assessing eligibility based on this definition.

However, if the definition proves too rigid or unworkable, the Office is willing to revisit this issue based on its experience in administering this rule. Importantly, however, this new group option is not intended to extend to the websites of all serials or newsletters, which in print or ePrint form have the benefit of separate group registration options.⁵⁵

iii. Website Limitation

The Office received requests to expand the rule beyond websites. Commenters recommended that the proposed rule be amended to include mobile applications (“apps”) in the definition of “website.”⁵⁶ They argued that “[m]any news publishers encourage

users to access content on an app rather than a website.”⁵⁷

The Office declines to amend the definition. It considers an app to be “a computer program that is used directly or indirectly in a computer or handheld electronic device.”⁵⁸ The Office has a procedure for registering the underlying code that operates the app.⁵⁹ To the extent that news publishers seek to register the works published on the app, a registration for a newspaper or a news website would protect those works if they contain the same content.

AIPLA encouraged the Office to revise the definition of “website” to clarify that a website is not limited to content accessed using a single domain name.⁶⁰ It explained that “web pages are composed of various elements, like text, images, and videos” that “might be hosted on a different server than the one hosting the main web page for reasons such as efficiency, speed, and cost.”⁶¹ The Office appreciates this distinction but declines to revise the definition. To qualify for this option, each collective work in the group must be published under one particular domain name. For registration purposes, the Office does not assess eligibility based on where component digital works may be stored. The Office believes the “particular web page” requirement is necessary to prevent applicants from using the option to register collective works published under different domain names on the same application, which would make it difficult to identify the website that is covered by the registration. Therefore, the final rule retains the definition proposed in the NPRM.

2. Scope of Collective Work

The proposed rule provides that claims registered under this option will be limited to the collective work authorship based on the selection, coordination, and/or arrangement of the individual component works, and that all parts of the collective work will constitute one work for purposes of 17 U.S.C. 504(c)(1).⁶² Additionally, the

to Suzanne Wilson, Gen. Counsel and Assoc. Register of Copyrights (Apr. 4, 2024).

⁴⁴ ABA–IPL Comment at 2.

⁴⁵ HBP Comment.

⁴⁶ The Authors Guild Comment at 1–2.

⁴⁷ John Murphy Comment; The Authors Guild Comment at 2 (arguing that “making eligibility determinations based on the substantive content of the materials submitted for registration . . . goes well beyond the Office’s ordinary examination process”).

⁴⁸ Gordon Firemark 1 Comment; *see* NWU, NPPA, & NASW at 12–13; Brenda Ulrich Comment; John Murphy Comment.

⁴⁹ 37 CFR 202.4(e)(1).

⁵⁰ 82 FR 51369, 51371 (Nov. 6, 2017).

⁵¹ 37 CFR 202.4(f)(1)(i).

⁵² *Id.* at 202.4(e)(1) (“Newspapers are intended either for the general public or for a particular ethnic, cultural, or national group”).

⁵³ The Authors Guild Comment at 1–2.

⁵⁴ *Cf.* 37 CFR 202.4(f)(1)(i) (designed for newsletters that “contain news or information that is chiefly of interest to a special group”).

⁵⁵ Group registration of serials provides a registration option for serial issues within a three-month period that meet the eligibility requirements for that option. *Id.* at 202.4(d)(1). Group registration of newsletters provides an option for registering a group of newsletters published within a one-month period. *Id.* at 202.4(f)(1).

⁵⁶ Copyright All. Comment at 6; NAB Comment at 4; NMA Comment at 10.

⁵⁷ The Authors Guild Comment at 2; Copyright All. Comment at 6; NAB Comment at 4.

⁵⁸ U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices*, sec. 722 (3d ed. 2021) (“*Compendium (Third)*”).

⁵⁹ *Id.*

⁶⁰ AIPLA Comment at 1–2.

⁶¹ *Id.*

⁶² In the NPRM, the Office also noted that when a website is registered as a compilation, the statute provides that the copyright owner may seek only one award of statutory damages for infringement of the compilation as a whole—rather than a separate award for each individual work that appears on the website—even if the defendant infringed all of the works covered by the registration. 17 U.S.C.

Office made clear that the registration will also cover the individual contributions contained within the collective work if they are fully owned by the copyright claimant and were first published in that work.

NPR asked the Office to confirm that “the scope of the collective work will explicitly include all copyrightable contributions made by the claimant, not just textual works.”⁶³ As noted above, a “news website” is defined as “a website that is designed to be a primary source of *written* information.”⁶⁴ If the collective work contains individual contributions that are fully owned by the copyright claimant and were first published in the work, then the registration will cover those contributions, so long as they are copyrightable subject matter. However, a component work “that is perceptible to the user only by downloading or separately purchasing that particular work is not considered part of the website for registration purposes and must be registered separately.”⁶⁵ Additionally, any “externally linked content [*i.e.*, content residing on another website] is not considered part of the website’s content for registration purposes.”⁶⁶

HBP recommended that the Office permit applicants to disclaim content that is licensed and not owned by the applicant. As with group newspapers, the Office does not see the need for a limitation of claim for news websites, because the proposed rule expressly states that “[e]ach update to the website must be [an original] collective work.” A registration issued by the Office pursuant to this rule will only cover the new contributions owned by the

504(c)(1) (“For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.”). Some commenters urged the Office to acknowledge and adopt the “‘independent economic value’ test to determine when copyrighted material constitutes a separate ‘work’ for the purpose of determining eligibility for statutory damages.” A2IM, AAP, & RIAA Comment at 2–3; Copyright All. Comment at 8; NAB Comment at 6–8. Acknowledging that the NPRM correctly states “that the group registration option will extend to individual works that make up the collective work if they are fully owned by the applicant,” NMA asked the Office to confirm that its statement “‘do[es] not reflect a substantive opinion on eligibility for statutory damages.” NMA Comment at 11–12. The Office stands by its restatement of section 504(c)(1) and declines to address the matter further in this rulemaking. See H.R. Rep. No. 94–1476, at 162 (1976), *reprinted in* 1976 U.S.C.C.A.N. 5659, 5770 (“Subsection (c)(1) makes clear, however, that, although they are regarded as independent works for other purposes, ‘all the parts of a compilation or derivative work constitute one work’ for this purpose.”).

⁶³ NPR Comment at 7.

⁶⁴ 37 CFR 202.4(m)(1)(i) (emphasis added).

⁶⁵ *Compendium (Third)* sec. 1002.2.

⁶⁶ *Id.*

copyright claimant. Consistent with any collective work registration, any articles, photos, or other contributions included in the collective work that were previously published, previously registered, owned by another party, or in the public domain are automatically excluded from the claim. As a practical matter, therefore, a disclaimer to expressly exclude material in the application is unnecessary.

Port. Prerogative Club asked the Office to “[c]larify whether updates to numerical information, such as prices, volumes, retweets, or other metrics, qualify as registrable under the rule, and whether the Office has changed its policy on the registrability of short phrases and headlines.” The Office states that its longstanding regulation denying protection for words and short phrases has not changed.⁶⁷ Regarding “prices, volumes, retweets, or other metrics,” it is unclear whether the commenter is referring to individual works of authorship, or whether these items appear in a compilation. Individual numbers and short phrases are not copyrightable. However, a copyrightable compilation of these items may be registrable.

3. One-Month Limitation

The proposed rule permits an applicant to include updates published on the same website within the same calendar month. Three commenters urged the Office to remove the limitation, arguing that it is too “onerous.”⁶⁸ NPR recommended that the Office allow for the option to cover “three months, or six months, or a calendar year” to “reduce registration costs.”⁶⁹ Noting that “attorneys’ fees and statutory damages can be awarded as long as copyright is registered within three months of first publication,” NWU, NPPA, and NASW requested that the rule be amended to allow registration of updates published “during any specified three-month period.”⁷⁰

At this time, given administrative capabilities, the Office cannot expand the option to cover more than one month of updates. As the NPRM explained, to deliver the option promptly, and to minimize development time, the Office is adapting the existing group application for newspapers, which is used to register up to one month of newspaper issues and contains

⁶⁷ See 37 CFR 202.1(a).

⁶⁸ John Murphy Comment; see NPR Comment at 5 (“[T]he office should further relax the frequency”); NWU, NPPA, & NASW Comment at 16–17.

⁶⁹ NPR Comment at 5.

⁷⁰ NWU, NPPA, & NASW Comment at 16.

technical validations that prevent applicants from entering publication dates that are more than one month apart. Changing the limit would require additional modifications to the application and delay implementation of the final rule. Further, the Office seeks an appropriate balance between the interests of copyright owners and the administrative burden to the Office. Based on the modest fee set for this option, some limit on the number of works included in each claim is necessary. The Office will reassess whether the limit can be increased after it has gained sufficient experience administering the rule.

4. Authorship, Ownership, and Work Made for Hire Requirements

Under the proposed rule, to be eligible for the option, each collective work in the group must have been created as a work made for hire, with the same person or entity named as the author and copyright claimant. Multiple commenters questioned this requirement.⁷¹ The Authors Guild argued that the work made for hire requirement “arbitrarily and unfairly confines the benefit of the rule to corporate entities even where other creators are producing substantially the same type of content.”⁷² While they recognized that this requirement reflects practical and technical limitations, NMA and AIPLA noted that “there does not seem to be a fundamental reason for such a limitation in principle, and in many business cases, the work may be fully owned by the publisher, or obtained via assignment or operation of law.”⁷³

The Office acknowledges that the work made for hire requirement may not reflect every business case of ownership. However, this requirement streamlines the registration procedures, which, as noted above, will adapt the existing group application option for newspapers. Under that option, the same person or entity must be named as the author and copyright claimant, and each issue must be a work made for hire. The Office retains the same requirements for the news websites option to minimize the need for additional development time that would otherwise be required.

⁷¹ The Authors Guild Comment at 3; NWU, NPPA, & NASW Comment at 11; NMA Comment at 11; AIPLA Comment at 2; Letter from Ass’n of Am. Publishers et al. to Suzanne Wilson, Gen. Counsel and Assoc. Register of Copyrights (Apr. 4, 2024).

⁷² The Authors Guild Comment at 3; NWU, NPPA, & NASW Comment at 11.

⁷³ NMA Comment at 11; AIPLA Comment at 2 (“[W]e see no clear policy reason to disfavor registration of copyrights acquired through other means (*e.g.*, by assignment).”).

Additionally, under general Copyright Office practice, if the author and claimant are not the same person, the applicant is statutorily required to provide a transfer statement explaining how the claimant acquired all of the rights initially belonging to the author.⁷⁴ If an applicant names a third party as the copyright claimant, but fails to provide a transfer statement, then the Office must correspond to determine whether the claimant actually owns all of the exclusive rights in the works, which delays the registration decision. The corresponding additional time and costs that the Office would incur are inconsistent with the reduced fee for examination of multiple collective works.

Moreover, imposing a work made for hire limitation is consistent with the goal of this rulemaking, which is to address obstacles to registering online news content produced by news publishers, who often also publish newspapers. Based on its experience with the existing group newspaper registrations, the Office expects that this requirement will produce an optimal public record, while reducing the administrative burden that these claims impose. The final rule accordingly retains the work made for hire requirement. Applicants who do not qualify for the option may still register their works individually using the Standard Application.

5. Subjects of Inquiry

i. Permitted Additional Title Information

The Office invited public comments on whether it should give applicants the opportunity to provide additional information, such as individual article or photograph titles, as part of this group registration option. Commenters expressed support for the implementation of an opportunity to include granular information concerning individual component works at the applicant's discretion.⁷⁵ The Authors Guild noted that "in the event an individual article is the subject of a later infringement action, the applicant may need to rely on its own recordkeeping to establish that the article was on the website during the period covered by the registration."⁷⁶ It concluded, "[t]he listing of individual titles or other information on the application may provide additional

evidence relevant to that showing."⁷⁷ The Office agrees and will provide instructions on its website explaining how applicants may submit additional information regarding component works on an optional basis.⁷⁸

ii. Permitted Archived URLs

The Office also invited public comments on the availability and effectiveness of technological solutions for saving or archiving websites that could assist or supplement news websites' recordkeeping efforts while also informing the public of the contents of the website and/or any updates registered. The Office suggested that applicants may provide in the "Note to Office" field additional information regarding the contents of the work, such as archived URLs that capture the complete content of each collective work submitted for registration. The Copyright Alliance expressed support for this suggestion, provided that doing so is voluntary.⁷⁹ Therefore the Office encourages applicants to submit archived URLs in the "Note to Office" field on a voluntary basis.

B. Filing Fee

The NPRM provided that the filing fee for this option will be \$95, the same fee that currently applies to a claim in a group of newspapers. It noted that the Office believes it is reasonable to charge the same fee as for the group newspaper option, given the similarities in expected workflow associated with examining these claims. The NMA expressed support for this modest fee, describing it as "reasonable and unarbitrary."⁸⁰ The final rule establishes this fee.

C. Deposit Requirements

The NPRM proposed that for each collective work submitted under this group registration option, applicants must "submit a deposit that is sufficient to identify some of the updates that were made to the website."⁸¹ The Office specified that "applicants will need to submit separate PDF files that each contain a complete copy of the home page for the site. Each PDF must show how the home page appeared at a specific point during each day of the calendar month when new updates were published on the site."⁸² Additionally, the NPRM required that each deposit

demonstrate "that the home page contains a sufficient degree of selection, coordination, and/or arrangement to be registered as a collective work."⁸³ Several commenters requested that the Office consider different deposit requirements, though commenters varied on the specific changes they requested or discussed deposits generally. The Office addresses each suggested change below.

1. "Home Page" Requirement

i. Timing of Deposit Capture

After considering NMA's request to resolve a purported ambiguity in the proposed rule regarding the time of day for daily deposits of home pages, the Office is clarifying the time period for capturing deposits.⁸⁴ The language within section (m)(6)(i) requiring "[e]ach PDF [to] show how the home page appeared at a specific point during each day of the calendar month" does not require applicants to capture PDFs of home pages at the same exact time every day.⁸⁵ Instead, PDFs of home pages must show how the home page appeared at some point during each day, in addition to satisfying other applicable deposit requirements.

ii. "Complete Copy"

Three commenters specifically requested that the Office expand the identifying material it will accept to encompass more than "a complete copy of the home page for the site."⁸⁶ The NAB stated that "the Office should amend the deposit requirements proposed in § 202.4(m)(6)(i) to allow for the submission of a copy of identifying material in lieu of a complete copy of the home page."⁸⁷ It explained that "many news websites utilize an 'infinite scroll' feature that automatically and continuously loads more content as users scroll down the web page" making

⁸³ *Id.*

⁸⁴ NMA Comment at 11.

⁸⁵ 37 CFR 202.4(m)(6)(i) (emphasis added); see also 89 FR at 316 ("Each PDF must show how the home page appeared at a specific point during each day of the calendar month when new updates were published on the site.").

⁸⁶ Copyright Alliance Comment at 10–11; NAB Comment at 4–5; NMA Comment at 11. See also Letter from Ass'n of Am. Publishers et al. to Suzanne Wilson, Gen. Counsel and Assoc. Register of Copyrights at App. 2 (Apr. 4, 2024) (proposing regulatory language altering the deposit requirement when "a complete copy is technically unfeasible or unreadable due to the size or continuous nature of the home page"); Nexstar Media Group Inc. Comment (stating that Nexstar "would like to see even more modification of the requirements for article submission, so that each local television station or other news site would not be required to have dedicated staff purely for depositing copyrighted materials, which may be updated several times per day").

⁸⁷ NAB Comment at 5.

⁷⁷ *Id.*

⁷⁸ Note, however, the Office will not certify the accuracy of such additional information based on the identifying material deposited.

⁷⁹ Copyright All. Comment at 7.

⁸⁰ NMA Comment at 7.

⁸¹ 89 FR at 316.

⁸² *Id.*

⁷⁴ *Compendium (Third)* sec. 620.4.

⁷⁵ ABA–IPL Comment at 3; AIPLA Comment at 2; Copyright All. Comment at 6–7; NAB Comment at 5; NMA Comment at 7; The Authors Guild Comment at 4.

⁷⁶ The Authors Guild Comment at 4.

it “technologically impossible for an applicant to satisfy the deposit requirement of providing a PDF of the home page in its entirety.”⁸⁸ Copyright Alliance echoed this sentiment stating “a user is able to continuously reveal additional content on the web page without having to leave the page to view the content on a separate web page. For such web pages, it is not possible to capture an ‘entire copy’ of the page since the user can endlessly reveal the contents of the page.”⁸⁹ Similarly, NMA noted that, due to the difficulties posed by “extensive or close-to-infinite scroll,” the Office should clarify that an applicant could meet the deposit requirement “as long as [the PDF] captures the masthead, URL identifier, and a defined minimum amount of the homepage (which in most cases will encompass all of it), including representative updates from the previous deposit copy.”⁹⁰

After considering these comments, the Office concludes that the requested modification to the proposed rule is reasonable and supports the overall goal of this group registration option. Accordingly, the final rule includes an alternative to the “complete copy of the home page” requirement where submitting a complete copy is not feasible due to the size or continuous nature of the home page. In such circumstances, applicants may “submit the first 25 pages of the home page that demonstrates updates from the previous deposit copy.” This portion of the rule is designed to decrease the burden on applicants that wish to utilize this group registration option, but are unable to satisfy the “complete copy” deposit requirement. The Office believes that this modification will facilitate registration, while also ensuring that the deposit provided is sufficient to identify the work and the copyrightable authorship covered by the registration. Applicants utilizing this provision are advised that any deposit should only include updates within the time period covered by the application. In the event that an applicant includes updates outside the time period, they would be considered previously published material, and would not be covered by the registration. Additionally, as stated in the NPRM, if a copyright owner is required to prove to a court or an alleged infringer “the specific contents of a website at any particular point in time, it will need to preserve and maintain its own copy of the site and

rely on its own recordkeeping to provide such proof.”⁹¹

2. Site Maps

NWU, NPPA, and NASW disagreed that a home page would constitute sufficient identifying material for registration.⁹² They asserted that “requiring deposit of PDFs of images of the home page is disconnected from the reality that updates aren’t necessarily visible on the ‘home page’ of a website.”⁹³ While “[u]pdates appear on the home pages of some—but far from all—newspaper publishers’ websites,” the home pages of other websites, such as self-published or references websites, are “mostly or entirely static,” with updates occurring on other “inside” pages that are not indexed or referenced on the home page.⁹⁴ Instead, NWU, NPPA, and NASW suggested that the Office accept a “sitemap page or set of sitemap pages,” “as the way to indicate which pages of a site have most recently been added or modified, and when.”⁹⁵ Sitemaps, they alleged, “are structured, standardized, machine-readable, and human-readable” and “all updates in a given period can be identified by a single sitemap or set of sitemaps,” which the Office could “use[] immediately.”⁹⁶

The Office declines to permit applicants to submit a sitemap page or a set of sitemap pages as identifying material for several reasons. First, it is not clear that sitemaps themselves provide information that would allow an examiner to determine whether each collective work within the group application contains sufficient creative selection, coordination, or arrangement.⁹⁷ Second, sitemaps do not satisfy the public notice function that deposits serve, as they do not display

⁹¹ 89 FR at 316.

⁹² NWU, NPPA, & NASW Comment at 17–20.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*; see also *id.* at 20 (proposing “submission of a file or set of files linked from a master file listing in structured form the text files on the site added or modified during the time period covered by the application, including the URL and the date each file was added to the site or most recently modified”).

⁹⁶ *Id.* at 17, 20. NWU, NPPA, and NASW asserted that “the ‘sitemap.xml’ standard has been widely accepted and adopted by website publishers, web publishing platforms, and developers of content management systems (CMSs).” *Id.* at 17–18.

⁹⁷ See 17 U.S.C. 410(a); *Compendium (Third) sec. 204.3* (“[D]eposit copy(ies) should be clear and should contain all the authorship that the applicant intends to register.”). This finding is bolstered by the examples cited in NWU, NPPA, and NASW’s comment, which do not provide any information that would allow the examiner to determine any copyrightability of the collective work. See NWU, NPPA, & NASW Comment at 18 nn.19–22; *id.* at 19 nn.23–26.

the work requested for registration and are not sufficient to identify the updates made to the websites.⁹⁸ As explained in the NPRM, any deposit requirement must “satisfy the public notice function of capturing, and making available for public inspection, a deposit that should be sufficient to identify” the work covered by the application.⁹⁹ Lastly, accepting sitemap deposits would likely not aid in efficiency as suggested.¹⁰⁰ If an examiner receives a sitemap, they would likely need to correspond with the applicant to determine what exactly the application covers. For these reasons, the Office declines to modify the final rule to include sitemaps.

3. Additional Deposit Suggestions

Commenters also suggested that the Office accept deposits comprised of annotated Portable Document Formats (“PDFs”)¹⁰¹ or PDF deposits of apps.¹⁰² Specifically, one commenter encouraged the Office to consider accepting annotated PDFs of a single web page, where “[a]nnotations could circle content that is not included in registration, such as licensed content as compared to original news organization content” or “content already registered.”¹⁰³ Other commenters, including Copyright Alliance, NMA, and the Authors Guild, proposed that the Office should accept PDFs that “contain a complete copy of the home page of . . . mobile application[s].”¹⁰⁴

⁹⁸ See H.R. Rep. No. 94–1476, at 153 (1976), reprinted in 1976 U.S.C.A.N. 5659, 5769 (“As a general rule the deposit of more than a tear sheet or similar fraction of a collective work is needed to identify the contribution properly and to show the form in which it was published.”).

⁹⁹ 89 FR at 316.

¹⁰⁰ See NWU, NPPA, & NASW Comment at 20 (suggesting that sitemaps “could be used immediately in manual Copyright Office work flow but would also lend themselves to efficiencies through automated parsing”).

¹⁰¹ Erik Gottlieb Comment.

¹⁰² Copyright All. Comment at 6; NMA Comment at 10; The Authors Guild Comment at 2. See also Letter from Ass’n of Am. Publishers et al. to Suzanne Wilson, Gen. Counsel and Assoc. Register of Copyrights at 1 & App. at 2 (Apr. 4, 2024) (proposing the Office “include[e] mobile app content in the scope of the rule”). The Office also received a comment from Port. Prerogative Club, suggesting that the Office “evaluate whether native [version control systems (“VCS”)] files would satisfy [the Office’s] internal requirements for deposit copies.” Port. Prerogative Club Comment at 2. The Office currently does not accept this file format, but will revisit file formats as part of its ongoing work in developing the Enterprise Copyright System.

¹⁰³ Erik Gottlieb Comment.

¹⁰⁴ NMA Comment at App. at 16 (proposing regulatory language). See Copyright All. Comment at 6; NMA Comment at 10; The Authors Guild Comment at 2. See also Letter from Ass’n of Am. Publishers et al. to Suzanne Wilson, Gen. Counsel and Assoc. Register of Copyrights at 1 & App. at 2

⁸⁸ *Id.*

⁸⁹ Copyright All. Comment at 10–11.

⁹⁰ NMA Comment at 11.

They discussed the ease with which applicants could submit app PDFs¹⁰⁵ and how PDFs address record-keeping concerns and “concerns over whether the collective works stem from the same source.”¹⁰⁶ Copyright Alliance and NMA also suggested that the absence of a uniform resource locator (“URL”) from app PDFs, a requirement of the proposed rule, is immaterial because apps “generally prominently feature the logo or other visible identifier of the publication in question” and news content on an app is “organized and contained,” similar to a website.¹⁰⁷ NMA further recommended that because the USPTO has “long accepted” app screenshots for trademark specimens, subject to certain requirements, the Office should adopt similar standards.¹⁰⁸

The Office declines to permit parties to submit annotated PDFs of a single web page. As discussed above, each update will be registered as a collective work. For that reason, there is no need to identify component works that are not owned by the claimant or component works that have been previously registered, because as a general rule, a registration for a collective work does not cover this type of preexisting material.

The Office also declines to accept PDF deposits of apps to represent a news website. Initially, it is unclear whether the selection, coordination, and/or arrangement of material encompassed within the PDFs would be identical to the selection, coordination, and/or arrangement of a website’s home page, regardless of whether the same content is present on both.¹⁰⁹ Further, the Office continues to believe that the rule’s deposit regulations offer flexibility, while still satisfying the public notice function of deposits. The regulation will permit applicants to submit a complete copy of the website’s home page, and when that is not feasible due to the size or continuous nature of the home page,

(Apr. 4, 2024) (proposing the Office “includ[e] mobile app content in the scope of the rule”).

¹⁰⁵ Copyright All. Comment at 6; The Authors Guild Comment at 2.

¹⁰⁶ Copyright All. Comment at 6.

¹⁰⁷ *Id.* (noting that “news content on an app is already organized and contained in an interconnected and uniform ecosystem, much like a website”); NMA Comment at 10 (stating that app screenshots serve the same “identifying function as URLs”).

¹⁰⁸ NMA Comment at 10.

¹⁰⁹ See 89 FR at 313 (“[T]he organization and arrangement show in a PDF package may vary depending on whether it depicts the website as it would appear on a desktop computer, a mobile phone or other electronic device.”). *But cf.* ABA–IPL Comment at 4 (“The Section is aware of no substantive difference between what is published at a URL and what is published on an app.”).

applicants may submit the first 25 pages of the home page demonstrating updates from the previous deposit copy.

4. Other Comments

Commenters made additional suggestions and remarks on the proposed rule’s deposit requirements and the Office’s deposit requirements generally. With respect to the Office’s modernization efforts, ABA–IPL suggested that the Office consider generally expanding the “format of deposit copies accepted” and regularly reviewing and updating registration regulations.¹¹⁰ ABA–IPL stated that the Office should accept deposits in .xml format for regularly updated news content, such as content covered under the proposed rule, “as [.xml] and similar formats are widely used in digital content creation and management.”¹¹¹ The University of Michigan Library (“UM–Library”) expressed concerns with the proposed regulations regarding fixation and preservation.¹¹² They asserted that the proposed deposit requirements are not “sufficiently fixed for copyright purposes” and that if deposit “materials are not collected and preserved—even as facsimiles or through emulation—then as a practical matter there will be a huge gap in the possibilities for research, scholarship, and understanding.”

The Office is sympathetic to commenters’ desires to expand the file formats accepted for deposit purposes generally, including regularly updated news content. As stated above and in the NPRM, the current registration system only accepts certain file types.¹¹³ The Office anticipates revisiting its acceptable file formats in connection with ongoing improvements to its technology systems. Until then, the Office continues to actively engage in research about the suitability of other file formats.¹¹⁴

The Office appreciates the fixation and preservation concerns about the proposed deposit requirements, codified in the final rule. It continues to believe, however, that the deposit requirements are sufficient. As stated above and in the NPRM, the Copyright Act imbues the Register with broad authority to accept

¹¹⁰ ABA–IPL Comment at 4–5.

¹¹¹ *Id.* at 4.

¹¹² UM–Library Comment at 1–2.

¹¹³ 89 FR at 313; see also *eCO Acceptable File Types*, U.S. Copyright Office, <https://www.copyright.gov/eco/help-file-types.html> (last visited July 5, 2024) (listing acceptable file formats).

¹¹⁴ For example, the Office is researching the web archive file format (“WARC”) that is utilized by the Library of Congress’ Web Archiving Team. Research has shown that there are many publicly available options for adapting websites in the WARC format, including through internet browser extensions.

identifying material in lieu of complete copies or phonorecords¹¹⁵ where such copies or phonorecords are “bulky, unwieldy, easily broken, or otherwise impractical to [serve] . . . as records identifying the work[s] registered.”¹¹⁶ This provision, and its legislative history, give the Register flexibility in determining the deposit requirements when identifying material is involved, and the Office has used this authority in the past. Within this rulemaking, the Office believes the proposed deposit requirements are appropriate, and less burdensome than general deposit requirements for websites.¹¹⁷ As the Office discussed in the NPRM, the proposed deposit requirements satisfy the public notice function and still require that deposits sufficiently “identify some of the updates” made to the website.¹¹⁸ Any fixation concerns may be alleviated by the fact that the proposed regulations are merely registration deposit requirements. They do not relieve a registrant from complying with other legal obligations, such as the obligation to maintain and preserve copies of a website, including its content, in the context of an infringement claim.¹¹⁹

E. Application Requirements

The NPRM explained that the Office planned to use one of its existing group registration application forms to process these claims. Specifically, it said applicants would be required to submit their claims through the current electronic registration system using the application designated for a group of newspaper issues. None of the commenters objected to this proposal.

After consulting with the Library of Congress’s Office of the Chief Information Officer, the Office determined that it would be feasible to create a separate application for news website claims that will be cloned from the corresponding application that is used for group newspaper claims. This should simplify the registration process for both applicants and Office staff by preventing potential confusion between claims involving newspaper issues and claims involving updates to a news website. The cloned application will include the same technical specifications and system validations that appear in the group newspaper

¹¹⁵ 17 U.S.C. 408(c)(1); see also 89 FR at 311 (discussing identifying material).

¹¹⁶ H.R. Rep. No. 94–1496, at 154 (1976), *reprinted in* 1976 U.S.C.C.A.N. 5659, 5770.

¹¹⁷ See 89 FR at 313, 316 (discussing how depositing complete copies of websites poses difficulties for applicants and the Office).

¹¹⁸ *Id.* at 316.

¹¹⁹ *Id.*

form. The final rule has been modified to reflect this change. Information and instructions on how to submit these claims will be provided in the application itself and on a dedicated page on the Office’s website.

F. Conclusion

Based on requests from affected parties for the expeditious implementation of the rule ¹²⁰ and the absence of arguments supporting a delay, the Office finds that good cause exists to issue these regulations as a final rule with an immediate effective date. Commenters have presented a record supporting “the demonstrable urgency of the conditions [the rule is] designed to correct.” ¹²¹ Finally, the registration option authorized by the

final rule will be available to registrants at or near the rule’s publication date.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Copyright claims, preregistration and registration.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

TABLE 1 TO PARAGRAPH (c)

| Registration, recordation, and related services | Fees (\$) |
|---|-----------|
| (12) Registration of a group of updates to a news website | 95 |

* * * * *

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 3. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

■ 4. Amend § 202.4 by adding paragraph (m) and revising paragraph (x) to read as follows:

§ 202.4 Group registration.

* * * * *

(m) *Group registration of updates to a news website.* Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that a group of updates to a news website may be registered with one application, the required deposit, and the filing fee required by § 201.3 of this chapter, with each update being registered as a collective work, if the following conditions are met:

(1) *Definitions.* For the purposes of this paragraph (m):

(i) *News website* means a website that is designed to be a primary source of written information on current events, either local, national, or international in scope, that contains a broad range of

news on all subjects and activities and is not limited to any specific subject matter.

(ii) *Website* means a web page or set of interconnected web pages that are accessed using a uniform resource locator (“URL”) organized under a particular domain name.

(2) *Requirements for collective works.* Each update to the website must be a collective work, and the claim must be limited to the collective work.

(3) *Author and claimant.* Each collective work in the group must be a work made for hire, and the author and claimant for each collective work must be the same person or organization.

(4) *Updates must be from one news website; time period covered.* Each collective work in the group must be published on the same news website under the same URL, and they must be published within the same calendar month. The applicant must identify the earliest and latest date that the collective works were published.

(5) *Application.* The applicant must complete and submit the online application designated for a group of updates to a news website. The application may be submitted by any of the parties listed in § 202.3(c)(1).

Authority: 17 U.S.C. 702.

Section 201.10 also issued under 17 U.S.C. 304.

■ 2. In § 201.3, amend table 1 to paragraph (c) by redesignating paragraphs (c)(12) through (c)(29) as (c)(13) through (c)(30), respectively, and adding a new paragraph (c)(12) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Section and the Copyright Claims Board.

* * * * *

(c) * * *

(6) *Deposit.* (i) For each collective work within the group, the applicant must submit identifying material from the news website. For these purposes “*identifying material*” shall mean separate Portable Document Format (PDF) files that each contain a complete copy of the home page of the website. In case a complete copy is technically unfeasible due to the size or continuous nature of the home page, the applicant may submit the first 25 pages of the home page that demonstrates updates from the previous deposit copy. Each PDF must show how the home page appeared at a specific point during each day of the calendar month when new updates were published on the website.

(ii) The identifying material must demonstrate that the home page contains sufficient selection, coordination, and arrangement authorship to be registered as a collective work. If the home page does not demonstrate sufficient compilation authorship, the deposit should include as many additional pages as necessary to demonstrate that the updates to the news website can be registered as a collective work.

(iii) The identifying material must be submitted through the electronic registration system, and all of the

¹²⁰ See Letter from Ass’n of Am. Publishers et al. to Suzanne Wilson, Gen. Counsel and Assoc.

Register of Copyrights (Apr. 4, 2024); Copyright All. Comment at 11.

¹²¹ H.R. Rep. No. 79–1980, at 260 (1946). See 5 U.S.C. 553(d) (30-day notice not required where agency finds good cause).

identifying material that was published on a particular date must be contained in the same electronic file. The files must be submitted in PDF format, they must be assembled in an orderly form, and each file must be uploaded to the electronic registration system as an individual electronic file (*i.e.*, not .zip files). The file size for each uploaded file must not exceed 500 megabytes, but files may be compressed to comply with this requirement.

(7) *Special relief.* In an exceptional case, the Copyright Office may waive the online filing requirement set forth in paragraph (m)(5) of this section or may grant special relief from the deposit requirement under § 202.20(d) of this chapter, subject to such conditions as the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose on the applicant.

* * * * *

(r) *The scope of a group registration.* When the Office issues a group registration under paragraph (d), (e), or (f) of this section, the registration covers each issue in the group and each issue is registered as a separate work or a separate collective work (as the case may be). When the Office issues a group registration under paragraphs (c), (g), (h), (i), (j), (k), or (o) of this section, the registration covers each work in the group and each work is registered as a separate work. When the Office issues a group registration under paragraph (m) of this section, the registration covers each update in the group, and each update is registered as a separate collective work. For purposes of registration, the group as a whole is not considered a compilation, a collective work, or a derivative work under section 101, 103(b), or 504(c)(1) of title 17 of the United States Code.

Shira Perlmutter,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2024–15880 Filed 7–19–24; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2023–0441; FRL–11837–02–R8]

Air Plan Approval; Colorado; 2017 Base Year Inventory and Emission Statement Rule Marginal Nonattainment Requirements, Revisions to Regulation 3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of state implementation plan (SIP) revisions submitted by the State of Colorado on July 27, 2020, March 22, 2021, and June 26, 2023, to meet certain Clean Air Act (CAA) requirements related to the Denver Metro/North Front Range (DMNFR) area’s classification as Marginal nonattainment for the 2015 8-hour ozone national ambient air quality standards (NAAQS). The revisions contain a base year emissions inventory for the nonattainment area and certify that the State’s existing Air Pollutant Emission Notice (APEN) program for stationary sources fulfills the CAA’s emission statement rule requirement. The revisions also include a new requirement for annual certification of APEN reported emissions for certain stationary sources. Unrelated to Colorado’s Marginal ozone nonattainment obligations, the EPA is also approving the State’s revisions to Regulation Number 3 concerning an update to the date of incorporation by reference of global warming potentials used in the computation of the carbon dioxide equivalent for comparing emissions from various greenhouse gases (GHGs). The EPA is taking this action pursuant to the CAA.

DATES: This rule is effective on August 21, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2023–0441. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT:

Matthew Lang, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6709, email address: lang.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our April 10, 2024 proposal (89 FR 25216). In that document we proposed to approve elements of Colorado’s Marginal ozone nonattainment SIP submission, namely its 2017 base year emissions inventory and its certification that its APEN reporting program and the addition of an annual certification requirement meet the CAA’s emission statement rule requirements. We found that these two SIP elements were prepared in accordance with the requirements of CAA sections 172(c)(3) and 182(a)(1) (for emissions inventories) and 182(a)(3)(B) (for emission statement rules). We also proposed to approve revisions to Regulation Number 3, including incorporation of updated global warming potentials and the removal of outdated language. The EPA is finalizing its proposed approval of the 2017 base year emissions inventory, emission statement rule certification, and revisions to Regulation Number 3 that were submitted by the State of Colorado.

II. Response to Comments

EPA held a 30-day comment period on the proposed rulemaking for this action, beginning on April 10, 2024, and ending on May 10, 2024. No comments were received.

III. Final Action

For the reasons described in our April 10, 2024 notice of proposed rulemaking at 89 FR 25216, we are taking final action to approve elements of Colorado’s July 27, 2020, March 22, 2021, and June 26, 2023 SIP Submittals. Specifically, we are approving Colorado’s 2017 base year emissions inventory under CAA sections 172(c)(3) and 182(a)(1). We are approving Colorado’s certification of its APEN reporting program (July 27, 2020 SIP Submittal) and the addition of the annual certification requirement in section II.A.3. to Regulation Number 3, Part A (June 26, 2023 SIP Submittal) as meeting the emission statement rule requirements of CAA section