§ 202.3(b)(1)(iv)(A) through (C) have been met, the applicant may include up to ten works in the group.

§ 202.3(c)(1).


§ 202.20(b)(2)(iii).

§ 202.3(c)(1).

§ 202.6 Supplementary registration.

§ 202.20 [Amended]

§ 202.20(c)(2)(vii)(D)(6) by removing the fourth sentence.

§ 202.4 Group registration.

(§ 202.4 as follows:

The applicant must provide a title for each work in the group.

The applicant must identify the authorship that each author or joint author contributed to the works, and the authorship statement for each author or joint author must be the same. Claims in the selection, coordination, or arrangement of the group as a whole will not be permitted on the application.

The applicant must complete and submit the online application designated for a group of unpublished works. The application may be submitted by any of the parties listed in § 202.3(c)(1).

§ 202.6 as follows:

The applicant must complete and submit the online application designated for a group of unpublished works. The application may be submitted by any of the parties listed in § 202.3(c)(1).

§ 202.20(c)(2)(vii)(D)(6) by removing the fourth sentence.

§ 202.20 [Amended]

§ 202.20(c)(2)(vii)(D)(6) by removing the fourth sentence.

§ 202.4 Group registration.

§ 202.4 as follows:

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The applicant must complete and submit the online application designated for a group of unpublished works. The application may be submitted by any of the parties listed in § 202.3(c)(1).

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§ 202.20(c)(2)(vii)(D)(6) by removing the fourth sentence.

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The applicant must complete and submit the online application designated for a group of unpublished works. The application may be submitted by any of the parties listed in § 202.3(c)(1).

§ 202.20 [Amended]
rule, a publisher may register a group of newspapers if the applicant submits the claim using the appropriate electronic application and submits a PDF copy of each issue within three months after the publication of the earliest issue in the group. Unlike the paper application, the electronic registration system contains automated validations that enforce this three-month deadline.

Since the Office implemented these new requirements, several newspaper publishers have reported difficulty and delays in creating PDF copies. Many publishers have not been able to submit their claims before the three-month deadline. And some publishers have attempted to bypass the validations in the electronic system by submitting a paper application and microfilm copies. The Office has refused to register these applications because they were submitted on a paper form and with the wrong deposit, or because they were received after the deadline. On average, it takes three months or more to process a paper application and a physical deposit, so three months or more to process a paper form and with the wrong deposit, or because they were received after the deadline. On average, it takes three months or more to process a paper application and a physical deposit, so by the time the Office has issued a refusal, the publisher may not have an opportunity to resubmit their claim on the appropriate form and with an appropriate deposit.

To address these problems and ensure that newspaper publishers can obtain the statutory benefits of registration, the Office has decided to eliminate the three-month filing requirement. This will provide more flexibility for applicants, and allow them to register issues that otherwise would be ineligible for registration. The Office will remove the automated validation that prevents publishers from submitting issues that are more than three months old. Beginning on February 18, 2019, publishers will be permitted to submit claims through the electronic registration system, regardless of when their issues were published. Likewise, publishers may electronically resubmit claims that were refused because they were filed on a paper form or without a digital deposit, or because they were received after the three month deadline. To do so, publishers must submit a new application (using the electronic form designated for newspaper issues), a new digital deposit, and a new filing fee.

The Office will monitor this change to the rule to determine whether it succeeds in incentivizing increased registrations and to ensure that it does not have an adverse effect on the Library’s collections. In the meantime, the Office has prepared a video tutorial that provides step-by-step instructions on how to complete the electronic application and upload digital copies. The help text that accompanies the application also provides answers to frequently asked questions. And the Office has published a circular that provides detailed information about the group registration process.

The Office still encourages publishers to submit their claims within three months of publication, because it may provide certain legal benefits. To seek statutory damages and attorney’s fees in an infringement action, publishers must register their issues in a timely manner. Specifically, a publisher typically may seek these remedies if a newspaper issue was registered (i) before the infringement commenced or (ii) within three months after the first publication of that work. See 17 U.S.C. 412. The Office finds there is good cause for adopting this amendment without first publishing a notice of proposed rulemaking, because it is a “rule[] of agency organization, procedure, or practice.” It does not adversely “alter the rights or interests of parties”—if anything, it eases the requirements for applicants choosing to exercise this option by removing the time restriction on its availability. It therefore merely “alter[s] the manner in which the parties present themselves . . . to the agency.” Id. Thus, notice and comment is not required under the Administrative Procedure Act.

All other provisions in the current regulation on group registration of newspapers remain unaffected.

List of Subjects in 37 CFR Part 202

Copyright.

For the reasons set forth above, the Copyright Office amends 37 CFR part 202 as follows:


5 5 U.S.C. 553(b)(A).

37 CFR 202.4(e). The new deadline was based on the date of publication for the earliest issue in the group (rather than the most recent) for the reasons stated in the notice of proposed rulemaking dated November 6, 2017. See 82 FR at 51377–78.


7 JEM Broad. Co. v. FCC, 22 F.3d 320, 326 (D.C. Cir. 1994); see also 5 U.S.C. 553(d)(1) (publication 30 days before effective date of substantive rule not required for rule that “grants or recognizes an exemption or relieves a restriction”).

8 JEM Broad. Co., 22 F.3d at 326.