

Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T09–0192 to read as follows:

§ 165.T09–0192 Safety Zone; Graduate Boat Parade, Sturgeon Bay, WI.

(a) **Location.** All navigable waters of Sturgeon Bay between the Highway 42 Bridge and Michigan Street Bridge.

(b) **Enforcement Period.** The safety zone described in paragraph (a) would be effective on May 29, 2021 from 11:00 a.m. through 1:30 p.m.

(c) **Regulations.**

(1) In accordance with the general regulations in section § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan (COTP) or a designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) The “designated representative” of the COTP is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on his or her behalf.

(4) Persons and vessel operators desiring to enter or operate within the safety zone during the boat parade must contact the COTP or an on-scene representative to obtain permission to do so. The COTP or an on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or an on-scene representative.

Dated: April 14, 2021.

D.P. Montoro,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2021–08507 Filed 4–23–21; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201, 203 and 221

[Docket No. 2021–2]

Copyright Alternative in Small-Claims Enforcement (“CASE”) Act Regulations: Expedited Registration and FOIA

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Copyright Office is issuing a notice of proposed rulemaking

regarding a new expedited registration option and a conforming amendment to the Office's Freedom of Information Act regulations, under the Copyright Alternative in Small-Claims Enforcement Act. To qualify for this expedited registration option, the work(s) being registered must be the subject of a claim or counterclaim before the Copyright Claims Board. The Office invites public comments on this proposed rule.

DATES: Written comments must be received no later than 11:59 p.m. Eastern Time on May 26, 2021.

ADDRESSES: For reasons of governmental efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov*. Specific instructions for submitting comments are available on the Copyright Office website at <http://copyright.gov/rulemaking/case-act-implementation/expedited-registration>. If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: John R. Riley, Assistant General Counsel, by email at jril@copyright.gov; Brad A. Greenberg, Assistant General Counsel, by email at brgr@copyright.gov. Each can be contacted by telephone at (202) 707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

A. Expedited Registration

On December 27, 2020, the President signed into law the Copyright Alternative in Small-Claims Enforcement (“CASE”) Act of 2020.¹ The CASE Act establishes the Copyright Claims Board (“CCB” or “Board”), a voluntary, alternative forum to federal court for parties to seek resolution of copyright disputes that have a low economic value (“small copyright claims”).² The creation of the CCB does

¹ Public Law 116–260, sec. 212, 134 Stat. 1182, 2176 (2020).

² See, e.g., H.R. Rep. No. 116–252, at 18–20 (2019); S. Rep. No. 116–105, at 7–8 (2019). Note, the CASE Act legislative history cited is for H.R. 2426 and S. 1273, the CASE Act of 2019, a bill nearly identical to the CASE Act of 2020. See H.R. 2426, 116th Cong. (2019); S. 1273, 116th Cong. (2019). In developing the CASE Act, Congress drew on model legislation in the Office's 2013 policy report, *Copyright Small Claims*, <https://www.copyright.gov/docs/smallclaims/usco-smallcopyrightclaims.pdf> (“Copyright Small Claims”). Congress also incorporated the Office's report and supporting

not displace or limit the ability to bring small copyright claims in federal court, but rather provides a more accessible alternative forum.³ The CCB has authority to hear copyright infringement claims, claims seeking a declaration of noninfringement, and misrepresentation claims under section 512(f) of the Copyright Act, as amended by the Digital Millennium Copyright Act (“DMCA”).⁴ Participation in the CCB is voluntary for all parties,⁵ and all determinations are non-precedential.⁶ The Copyright Office (“Office”) is in the process of standing up the CCB and last month published a notification of inquiry regarding several rulemakings that the Office intends to promulgate and for which it invited public comments.⁷ Congress directed the CCB to begin operations by December 27, 2021, though the Register may, for good cause, extend that deadline by not more than 180 days.⁸

Congress created the CCB to address the challenges of litigating copyright cases in federal court, including the significant costs and time required. In doing so, it also considered the Copyright Act’s registration-related prerequisite to filing a federal lawsuit:⁹ Copyright owners of U.S. works cannot pursue infringement litigation until the Office has issued or refused a copyright registration, except in limited circumstances.¹⁰ The registration

materials into the statute’s legislative history. H.R. Rep. No. 116–252, at 19; S. Rep. No. 116–105, at 2.

³ H.R. Rep. No. 116–252, at 17; S. Rep. No. 116–105, at 2–3, 9.

⁴ 17 U.S.C. 1504(c)(1)–(3). The CCB cannot issue injunctive relief but can require that an infringing party cease or mitigate its infringing activity in the event such party agrees and the agreement is reflected in the proceeding’s record. *Id.* at 1504(e)(2)(A)(i), (e)(2)(B). This provision also applies to parties making knowing material misrepresentations under section 512(f). *Id.* at 1504(e)(2)(A)(ii).

⁵ See *id.* at 1504(a); H.R. Rep. No. 116–252, at 17, 21; S. Rep. No. 116–105, at 3, 11.

⁶ H.R. Rep. No. 116–252, at 21–22, 33; S. Rep. No. 116–105, at 14.

⁷ 86 FR 16156 (Mar. 26, 2021).

⁸ Public Law 116–260, sec. 212(d), 134 Stat. at 2199.

⁹ Copyright Small Claims 107–09.

¹⁰ 17 U.S.C. 411(a) (“no civil action for infringement of the copyright in any United States work shall be instituted until preregistration or registration of the copyright claim has been made in accordance with this title” or “where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused”); *Fourth Estate Pub. Benefit Corp. v. Wall-Street.com, LLC*, 139 S. Ct. 881 (2019) (holding that “registration occurs, and a copyright claimant may commence an infringement suit, when the Copyright Office registers a copyright”). Note that the registration requirement applies only to “any United States work” and not to foreign works. See 17 U.S.C. 411(a).

requirement enables the Copyright Office to compile a public record of copyright claims that serves as a valuable resource for potential users of works, “gives courts the benefits of the Register’s expertise on issues of registrability, and serves judicial economy by narrowing the issues that must be litigated.”¹¹ The Supreme Court described the statutory registration requirement as “akin to an administrative exhaustion requirement that the owner must satisfy before suing to enforce ownership rights.”¹² Additionally, the Copyright Act states that in most instances, for a copyright owner to qualify for an award of attorneys’ fees or statutory damages, the infringed work(s) must have been registered within three months of publication or, if unpublished, before the act of infringement.¹³

In considering the challenges facing those involved in small copyright claims, the Office and Congress recognized both the continued value of copyright registration and the practical difficulties smaller-value copyright owners may have in registering their works. As the Office noted in its report, while copyright registration “helps to produce a valuable public record of American creativity as well as material information to parties in litigation,” at times it may also act as “a procedural hurdle for copyright claimants . . . who may not be aware of the repercussions of not registering in a timely manner.”¹⁴ Congress echoed this sentiment, further noting that “many small claimants currently do not register their works because they do not expect to be able to enforce their rights in federal court.”¹⁵

The CASE Act addresses these dynamics by allowing a party to file an infringement claim with the CCB once “a completed application, a deposit, and the required fee for registration” have been delivered to the Office.¹⁶ The legislative history characterizes this approach as taking “a more liberal attitude towards the commencement of a proceeding while registration of a work is in progress.”¹⁷ Thus, unlike in federal court, a party does not need to obtain a registration prior to filing a claim before the CCB. But before the CCB renders a decision in any

infringement dispute, the CASE Act mandates that the work at issue must be registered by the Office, and the other parties in the proceeding must have an opportunity to address the registration certificate.¹⁸ Recognizing that some infringement claims may involve works for which a registration application has been submitted, but for which the Office has not yet rendered a decision, Congress directed the CCB to hold such proceedings in abeyance.¹⁹ If the Office refuses the registration, the CCB action will be dismissed without prejudice;²⁰ the CCB also may dismiss an action without prejudice if it has been held in abeyance for at least one year, upon providing thirty days written notice to the parties.²¹ As Congress explained, “[t]his process is intended to strike a balance between still encouraging timely registration of works with the promise of a higher damages caps [in federal court] with the reality that smaller creators may have numerous understandable reasons for not routinely engaging in the registration process.”²²

To ensure that the work at issue in a CCB proceeding is registered in a timely manner before the CCB issues a determination, the CASE Act directs the Office to “establish regulations allowing the Copyright Office to make a decision, on an expedited basis, to issue or deny copyright registration for an unregistered work that is at issue before the Board.”²³ The Office already has a process for expedited copyright registration, called “special handling,”²⁴ which is granted under specific circumstances: Pending or prospective litigation; customs matters; or contract or publishing deadlines that necessitate the expedited issuance of a certificate.²⁵ As explained below, the Office is not proposing to use the existing special handling processes to institute the expedited registration mechanism for a CCB matter, although the processes will be somewhat similar. One difference will be the level of fees. The special handling fee is not insignificant for qualifying applicants and currently is set at \$800;²⁶ the Office has found this to be an inelastic fee, and the fees collected are used to help offset

¹¹ Brief for the United States as Amicus Curiae Supporting Vacatur and Remand at 4, *Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154 (2010) (No. 08–103).

¹² *Fourth Estate*, 139 S. Ct. at 887 (citation omitted).

¹³ 17 U.S.C. 412.

¹⁴ Copyright Small Claims at 16–17; see H.R. Rep. No. 116–252, at 25–26 (same).

¹⁵ H.R. Rep. No. 116–252, at 26.

¹⁶ 17 U.S.C. 1505(a)(1).

¹⁷ H.R. Rep. No. 116–252, at 25.

¹⁸ 17 U.S.C. 1505(b)(1).

¹⁹ Id. at 1505(b)(2).

²⁰ Id. at 1505(b)(3); see also Copyright Small Claims at 108–109.

²¹ 17 U.S.C. 1505(b)(2).

²² H.R. Rep. No. 116–252, at 26.

²³ 17 U.S.C. 1505(d).

²⁴ 37 CFR 201.3(d)(7).

²⁵ U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* sec. 623.2 (3d ed. 2021).

²⁶ 37 CFR 201.3(d)(7)(i).

other registration services.²⁷ To help defer the costs of expedited registration before the CCB, the Office also needs to charge a fee, but the cost cannot be so high as to deter participation.²⁸ Accordingly, the expedited registration fee for a matter before the CCB will be considerably lower than fees for special handling under other circumstances.

B. Freedom of Information Act

The CASE Act limits the materials related to a CCB proceeding that must be disclosed under the Freedom of Information Act (“FOIA”).²⁹ The Office is otherwise subject to FOIA, which, subject to certain conditions and exceptions, requires agencies to make their records available to the public either proactively or in response to a request.³⁰ The CASE Act limits the CCB documents, materials, and other records that must be disclosed under FOIA to “determinations, records, and information” that are published on the Office’s website and that relate to a CCB final determination.³¹

II. Proposed Rule

Having carefully considered the above issues and its own administrative and operational constraints in administering the registration system, the Office now issues a proposed rule amending its regulations regarding expedited registration for claimants engaged in CCB proceedings, as well as a conforming amendment for disclosures under FOIA. The Office invites public comment on any aspects of the amended rules.

A. Small Claims Expedited Registration

The Office proposes establishing regulations for small claims expedited registration consistent with the statute. First, before a claim or counterclaim may be asserted before the CCB, the copyright owner must have either been issued a registration certificate for the work(s) at issue or submitted a completed registration application, deposit, and the required registration fee to the Office. The CCB cannot hear a claim or counterclaim related to a work for which the registration has been rejected.

Second, the claimant or counterclaimant must submit its

application for small claims expedited registration by making a request and paying the fee as directed by the CCB. An important difference between the small claims expedited registration process and the Office’s general special handling procedures is that requests for small claims expedition will be made to the CCB, and not through the electronic registration system (currently known as “eCO”). Specifically, the claimant or counterclaimant who has a pending copyright application must indicate that the registration is pending and place the service request (“SR”) number issued by the Copyright Office’s Office of Registration Policy and Practice³² (“RPP”) on its claim or counterclaim notice. That SR number can be used to identify the work pending in RPP’s registration application queue. If small claims expedited registration request is granted, as discussed further below, RPP will be notified and will use the SR number to move the application up in the queue. If the proceeding cannot move forward because a registration certificate for the work has not been issued, the CCB will hold the proceedings in abeyance until a decision is made on the application.

Third, a claimant or counterclaimant may only request small claims expedited registration after it has submitted a completed registration application and the respondent has either opted in or has not timely opted out. This will also ensure that registration applicants do not invoke the CCB to receive special handling treatment at a discounted rate when not genuinely intending to pursue their claim through the CCB.

Fourth, the fee for small claims expedited registration must be timely made for the required amount. The small claims expedited registration fee supplements, and does not substitute for, the registration application fee; it is intended to partially offset the costs for the Office of accelerating the examination of works before the CCB. The CASE Act sets a statutory minimum filing fee for a proceeding of \$100; the statutory maximum, which includes the initial filing fee, may not exceed filing fees in federal district court, which currently are set at \$402.³³ Accordingly, the special handling fee of \$800 would

on its own exceed the maximum fee set by Congress, which would run counter to the Act’s aims to keep the CCB accessible for smaller economic actors. On the other hand, a *de minimis* fee may not be appropriate either, as expedited registration will impose real costs on the Office that would otherwise need to be offset through appropriations. To keep the CCB accessible while helping to offset some of the anticipated increased costs of small claims expedited registration, the Office has determined that a \$50 fee is reasonable. The Office thus proposes that applicants seeking small claims expedited registration pay a \$50 fee for each claim; this fee supplements the relevant application fees for the type of application at issue. In line with its overall approach to fee-setting, the Office intends to periodically reassess the reasonableness of the fee once additional data about the operation of this service becomes available.

Fifth, the request for small claims expedited registration must be granted before RPP is notified of the request. The bases for denying a request are failure to pay the required fee or determination that the request would be unduly burdensome. If the request is granted, RPP will ordinarily make a decision on the application within ten business days of receiving the request. If RPP requires additional correspondence with the applicant, this may extend the review timeline.

Sixth, the Office will continue to examine all copyright registration applications under the same standards, regardless of whether the application is reviewed under small claims expedited registration, special handling, or the general registration process. Whether a work is eligible for copyright registration is established by the Copyright Act and the Office’s regulations, and the CASE Act does nothing to change that.³⁴

The Office proposes to establish this process as an interim rule. The CCB is a first-of-its-kind tribunal, and the Office recognizes that as it begins to hear cases there may be a need to adjust some processes. An interim rule will help maintain flexibility to make necessary modifications in response to new evidence or unforeseen issues. The learned experiences of the CCB and the parties that come before it may lead the Office to revise this rule to better fulfill Congress’s intent for expedited registration under the CASE Act. This proposed rule is intended to establish

²⁷ 83 FR 24054, 24060 (May 24, 2018).

²⁸ We note that the CASE Act states that the costs of filing a CCB action “may not exceed the cost of filing an action in a district court of the United States, and shall be fixed in amounts that further the goals of the Copyright Claims Board.” 17 U.S.C. 1510(c).

²⁹ *Id.* at 1506(t)(4).

³⁰ See 5 U.S.C. 552.

³¹ 17 U.S.C. 1506(t)(4).

³² The Office of Registration Policy and Practice “administers the U.S. copyright registration system and advises the Register of Copyrights on questions of registration policy and related regulations and interpretations of copyright law.” 37 CFR 203.3(e).

³³ See 28 U.S.C. 1914(a)–(b), note (2020) (District Court Miscellaneous Fee Schedule); see also Admin. Off. of the U.S. Courts, *District Court Miscellaneous Fee Schedule* (Dec. 2020), <https://www.uscourts.gov/services-forms/fees/district-court-miscellaneous-fee-schedule>.

³⁴ See 17 U.S.C. 102; *Feist Publications, Inc., v. Rural Telephone Service Co.*, 499 U.S. 340 (1991); 37 CFR 202.1.

procedures for small claims expedited registration that will facilitate access to the CCB while guarding against improper requests. The Office invites public comment on these proposed changes.

B. Freedom of Information Act

The Office also proposes a technical edit to the Office's FOIA regulations to reflect the CASE Act's statutory reference to FOIA. The edit will add language stating that CCB determinations published on the Office's website and related records and information published on that website may be disclosed under FOIA. All other materials related to CCB proceedings are

exempt from disclosure under FOIA.³⁵ The Office invites public comment on the proposed conforming amendment.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 203

Freedom of information.

37 CFR Part 221

Claims, Copyright, Registration.

Proposed Regulations

For reasons stated in the preamble, the Copyright Office proposes to amend 37 CFR chapter II as follows:

PART 201—GENERAL PROVISIONS

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

Authority: 17 U.S.C. 702.

- 2. Amend § 201.3 by:

- a. Redesignating paragraphs (d)(8) through (17) as paragraphs (d)(9) through (18), respectively.

- b. Adding new paragraph (d)(8).

The addition reads as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(d) * * *

TABLE 1 TO PARAGRAPH (d)

Special services	Fees (\$)
(8) Small claims expedited registration fee for each claim	50
* * * * *	

* * * * *

PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

- 3. The authority citation for part 203 continues to read as follows:

Authority: 5 U.S.C. 552.

- 4. Amend § 203.1 by adding a sentence at the end of the section to read as follows:

§ 203.1 General.

* * * All information relating to proceedings of the Copyright Claims Board under chapter 15 of the Copyright Act is exempt from disclosure under FOIA, except for Copyright Claims Board determinations published on the Copyright Office website and related records and information published on that website.

- 5. Add subchapter B, consisting of part 221, to read as follows:

SUBCHAPTER B—COPYRIGHT CLAIMS BOARD, LIBRARY OF CONGRESS

PART 221—REGISTRATION

Sec.

221.1 Registration requirement.

221.2 Small claims expedited registration.

Authority: 17 U.S.C. 702, 1510.

§ 221.1 Registration requirement.

(a) A claim or counterclaim alleging infringement of an exclusive right in a copyrighted work may not be asserted before the Copyright Claims Board unless the legal or beneficial owner of the copyright has first delivered a completed application, a deposit, and the required fee for registration of the copyright to the Copyright Office and a registration certificate has either been issued or has not been refused.

(b) For a work that has not yet been registered, a claimant or counterclaimant who has a pending application to register the work must indicate on its claim or counterclaim notice that the work is pending registration and must include the work's service request (SR) number that was assigned to the copyright registration claim. If the proceeding cannot continue because of a pending registration, the Copyright Claims Board shall hold proceedings in abeyance until the claimant or counterclaimant provides the Copyright Claims Board with the certificate of registration or the registration number on the certificate of registration or certificate preview. The proceeding shall be dismissed without prejudice if the Copyright Claims Board is notified that the registration application was rejected. If the proceeding has been held in abeyance for more than one year, the Copyright

Claims Board may dismiss the claim or counterclaim without prejudice after providing thirty days written notice.

§ 221.2 Small claims expedited registration.

(a) *Eligibility.* A claimant or counterclaimant alleging infringement of an exclusive right in a copyrighted work before the Copyright Claims Board is eligible to expedite a copyright registration application under this section. This process shall be known as small claims expedited registration.

(b) *Initiating small claims expedited registration.* The small claims expedited registration process can only be initiated after the claimant or counterclaimant has both completed an application for copyright registration and the respondent has opted in or not timely opted out. To initiate the small claims expedited registration process, the qualifying claimant or counterclaimant must make a request and pay the required fee as directed by the Copyright Claims Board. Parties should request small claims expedited registration once the respondent has opted in or not timely opted out. Parties must not attempt to initiate small claims expedited registration by using the Copyright Office's electronic registration system (eCO).

(c) *Fee—(1) Amount.* The small claims expedited registration fee for each claim

³⁵ 17 U.S.C. 1506(t)(4).

must be made for the appropriate amount, as prescribed in § 201.3(c) of this chapter. The fee for small claims expedited registration is intended to accelerate the registration process for a qualifying Copyright Claims Board claimant or counterclaimant that already has a pending registration application; it is in addition to, and does not offset, the fee for copyright registration.

(2) *Method of payment.* (i) The fee for small claims expedited registration must be submitted electronically to the Copyright Claims Board and not through the Copyright Office's electronic registration system (eCO).

(ii) A claimant or counterclaimant shall follow instructions on the Copyright Office website to make electronic payments with credit or debit cards, or directly from their bank accounts by means of automated clearing house (ACH) debit transactions. Applicants may not use a deposit account to make payments for small claims expedited registration.

(3) *No refunds.* The small claims expedited registration fee is not refundable, unless the small claims expedited registration request is denied under paragraph (d) of this section.

(d) *Denied requests.* If the applicant failed to pay the required fee or if the Copyright Office determines that expedited registration under this section would be unduly burdensome, the Office will notify the applicant that the request has been denied and that the copyright registration claim will be examined on a regular basis.

(e) *Granted requests.* If the request for expedited registration under this section is granted, the Office will make every attempt to examine the application or the document within ten business days after notice of the request is delivered by the Copyright Claims Board to the Copyright Office's Office of Registration Policy and Practice, although the Copyright Office cannot guarantee that all applications or all documents will be registered or recorded within that timeframe.

(f) *Identical registration standards.* The Copyright Office will apply the same practices and procedures set out in the part when examining a copyright registration claim, regardless of whether the applicant asks for small claims expedited registration.

Dated: April 20, 2021.

Regan A. Smith,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2021-08570 Filed 4-23-21; 8:45 am]

BILLING CODE 1410-30-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R4-ES-2019-0081; FF09E22000 FXES11130900000 201]

RIN 1018-BD95

Endangered and Threatened Wildlife and Plants; Removal of the Dwarf-Flowered Heartleaf From the Federal List of Endangered and Threatened Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the dwarf-flowered heartleaf (*Hexastylis naniflora*), a plant endemic to the upper Piedmont region of western North Carolina and upstate South Carolina, from the Federal List of Endangered and Threatened Plants (List). This determination is based on a thorough review of the best available scientific and commercial data, which indicate that the threats to the species have been eliminated or reduced to the point that the species no longer meets the definition of a threatened species, and does not meet the definition of an endangered species, under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft post-delisting monitoring (PDM) plan for the dwarf-flowered heartleaf. We seek information, data, and comments from the public regarding this proposal to delist this species and on the draft PDM plan.

DATES: We will accept comments received or postmarked on or before June 25, 2021. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by June 10, 2021.

ADDRESSES: You may submit comments on this proposed rule by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R4-ES-2019-0081, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this

document. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R4-ES-2019-0081, U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Document availability: The proposed rule, draft PDM plan, and supporting documents (including the species status assessment (SSA) report, references cited, and 5-year review) are available at <http://www.regulations.gov> under Docket No. FWS-R4-ES-2019-0081.

FOR FURTHER INFORMATION CONTACT:

Janet Mizzi, Field Supervisor, U.S. Fish and Wildlife Service, Asheville Ecological Services Field Office, 160 Zillico St., Asheville, NC 28801; telephone 828-258-3939. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments and information from other concerned governmental agencies (including, but not limited to, State and Federal agencies and city or county governments), Native American tribes, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments on:

(1) Information concerning the biology and ecology of dwarf-flowered heartleaf;

(2) Relevant data concerning any threats (or lack thereof) to dwarf-flowered heartleaf, particularly any data on the possible effects of climate change as it relates to habitat, as well as the extent of State protection and management that would be provided to this plant as a delisted species;

(3) Current or planned activities within the geographic range of dwarf-flowered heartleaf that may negatively impact or benefit the species; and

(4) The draft PDM plan and the methods and approach detailed in it. Please include sufficient information