

TABLE 1 TO PARAGRAPH (a)—Continued

Name	Facility type	Latitude	Longitude
AR33	WTG	41.0521781	-70.5721951
AR34	WTG	41.0524766	-70.5501649
AR35	WTG	41.0527709	-70.5281343
AR36	WTG	41.0530609	-70.5061034
AR37	WTG	41.0533468	-70.4840722
AR38	WTG	41.0536285	-70.4620407
AR39	WTG	41.0539059	-70.4400088
AR40	WTG	41.0541792	-70.4179767
AR41	WTG	41.0544482	-70.3959442
AR42	WTG	41.0547130	-70.3739115
AS32	WTG	41.0351987	-70.5938225
AS33	WTG	41.0355012	-70.5717982
AS34	WTG	41.0357995	-70.5497735
AS35	WTG	41.0360937	-70.5277485
AS36	WTG	41.0363836	-70.5057231
AS37	WTG	41.0366693	-70.4836975
AS38	WTG	41.0369508	-70.4616715
AS39	WTG	41.0372281	-70.4396452
AS40	WTG	41.0375012	-70.4176186
AS41	WTG	41.0377701	-70.3955918
AS42	WTG	41.0380347	-70.3735646
AT33	WTG	41.0188243	-70.5714016
AT34	WTG	41.0191225	-70.5493824
AT35	WTG	41.0194164	-70.5273630
AT36	WTG	41.0197062	-70.5053432
AT37	WTG	41.0199917	-70.4833231
AT38	WTG	41.0202731	-70.4613027
AT39	WTG	41.0205502	-70.4392819
AT40	WTG	41.0208231	-70.4172609
AT41	WTG	41.0210918	-70.3952396
AU36	WTG	41.0030287	-70.5049636
AU37	WTG	41.0033141	-70.4829490
AU38	WTG	41.0035953	-70.4609341
AU39	WTG	41.0038722	-70.4389190
AU40	WTG	41.0041450	-70.4169035
AV37	WTG	40.9866364	-70.4825752
AV38	WTG	40.9869174	-70.4605659
AV39	WTG	40.9871942	-70.4385563
AW38	WTG	40.9702395	-70.4601980

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the First Coast Guard District Commander in the enforcement of the safety zones.

(c) *Regulations.* No vessel may enter or remain in the safety zones described in paragraph (a) of this section except for the following:

(1) An attending vessel as defined in 33 CFR 147.20;

(2) A vessel authorized by the First Coast Guard District Commander or a designated representative.

(d) *Request for Permission.* Persons or vessels seeking to enter the safety zone must request authorization from the First Coast Guard District Commander or a designated representative. If permission is granted, all persons and vessels must comply with lawful instructions of the First Coast Guard

District Commander or designated representative via VHF-FM channel 16 or by phone at 617-223-1560 (First Coast Guard District Command Center).

(e) *Effective and enforcement periods.* This section will be effective from June 15, 2023, through 11:59 p.m. on May 31, 2024. It will only be enforced during active construction or other instances which may cause a hazard to navigation deemed necessary by the First Coast Guard District Commander. The First Coast Guard District Commander will make notification of the exact dates and times in advance of each enforcement period for the locations above in paragraph (a) of this section to the local maritime community through the Local Notice to Mariners and will issue a Broadcast Notice to Mariners via marine channel 16 (VHF-FM) as soon as practicable in response to an emergency. If the project is completed before May 31, 2024, enforcement of the safety zones will be suspended, and notice given via Local Notice to Mariners. The First Coast Guard District Local Notice

to Mariners can be found at: <http://www.navcen.uscg.gov>.

Dated: April 27, 2023.

**J.W. Mauger,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 2023-09415 Filed 5-2-23; 8:45 am]

**BILLING CODE 9110-04-P**

## LIBRARY OF CONGRESS

### U.S. Copyright Office

#### 37 CFR Parts 222 and 235

[Docket No. 2023-4]

#### Copyright Claims Board: Agreement-Based Counterclaims

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

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** The U.S. Copyright Office is amending its regulations governing

Copyright Claims Board proceedings to address the filing of agreement-based counterclaims and related discovery requirements.

**DATES:** Written comments must be received no later than 11:59 p.m. Eastern Time on June 20, 2023.

**ADDRESSES:** For reasons of Government 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's website at <https://www.copyright.gov/rulemaking/agreement-based-counterclaims/>. If electronic submission of comments is not feasible due to lack of access to a computer or the internet, please contact the Copyright Office using the contact information below for special instructions.

**FOR FURTHER INFORMATION CONTACT:** Rhea Efthimiadis, Assistant to the General Counsel, by email at [mefth@copyright.gov](mailto:mefth@copyright.gov) or telephone at 202-707-8350.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Copyright Alternative in Small-Claims Enforcement (“CASE”) Act of 2020<sup>1</sup> directed the Copyright Office to establish the Copyright Claims Board (“CCB”), a voluntary forum for parties seeking resolution of certain copyright disputes that have a total monetary value of \$30,000 or less. As an alternative forum to Federal district court, the CCB is designed to be accessible to *pro se* individuals and individuals without much knowledge of copyright law.<sup>2</sup> In early 2021, the Office published a notification of inquiry (“NOI”) asking for public comments on the CCB’s operations and procedures.<sup>3</sup>

Following the NOI, the Office published multiple notices of proposed rulemaking governing the conduct of proceedings before the CCB, including filing claims and counterclaims, responses to claims and counterclaims, and discovery.<sup>4</sup> After receiving and considering comments submitted by the public, the Office published corresponding final rules.<sup>5</sup> On June 16,

2022, the CCB began receiving claims through its website *dockets.ccb.gov*.

After reviewing its regulations, the Office is proposing to add rules specifically governing agreement-based counterclaims.

**II. Proposed Rule and Request for Comments**

The CASE Act provides that the CCB may hear only certain types of counterclaims: those that arise “under section 106 or section 512(f) and out of the same transaction or occurrence that is the subject of a claim of infringement[,] . . . a claim of noninfringement[,] . . . or a claim of misrepresentation” and those that “arise[ ] under an agreement pertaining to the same transaction or occurrence that is the subject of a claim of infringement . . . if the agreement could affect the relief awarded to the claimant.”<sup>6</sup> This last category of counterclaims are referred to here as “agreement-based counterclaims.”

*Asserting and Responding to Agreement-Based Counterclaims*

In an earlier rulemaking, “the Office propose[d] that the information required to assert a counterclaim should closely mirror the information required to assert a claim” for counterclaims that arise under section 106 or section 512(f).<sup>7</sup> After reviewing the public comments, the Office promulgated final rules requiring that a counterclaim arising under section 106 or section 512(f) include a description of “[t]he facts leading the counterclaimant to believe the work has been infringed.”<sup>8</sup> At that time, the Office did not propose separate rules to address agreement-based counterclaims.

After reviewing its regulations, the Office has concluded that such counterclaims should have their own content requirements. Specifically, the Office proposes that agreement-based counterclaims should include the identification of the agreement that the agreement-based counterclaim is based upon, a brief statement describing how the agreement pertains to the same transaction or occurrence that is the subject of the infringement claim against the counterclaimant, and a brief statement describing how the agreement

could affect the relief awarded to the claimant.

The Office also believes that regulations are necessary to specify the required contents of a counterclaim respondent’s<sup>9</sup> response to an agreement-based counterclaim. A counterclaim respondent should describe in detail its disagreement with the facts in the counterclaim, including any description of defenses to the counterclaim, and an explanation of why the counterclaim respondent believes the counterclaimant’s position regarding the agreement lacks merit.

*Standard Interrogatories for Agreement-Based Counterclaims*

The proposed rule also addresses standard interrogatories for agreement-based counterclaims that supplement the standard interrogatories common to all claim types. The additional standard interrogatories will include: identification and a description of the specific terms or provisions of the agreement, written or oral, that the counterclaimant alleges have been violated; the basis for the counterclaimant’s belief that the agreement was both valid and violated; the reasons why the counterclaimant believes the agreement could affect the relief that might be awarded; a description of the counterclaimant’s performance under the agreement, as relevant to the counterclaim; and identification of any alleged failure in the counterclaim respondent’s performance under the agreement.

In turn, the additional standard interrogatories that an agreement-based counterclaim respondent must answer will address the following: all applicable defenses to the counterclaim and the facts supporting those defenses; any other reasons the counterclaim respondent believes that it did not violate the agreement or that the agreement was not valid; the basis for any belief by the counterclaim respondent that the agreement does not affect the relief that might be awarded; a description of the counterclaim respondent’s performance under the agreement, as relevant to the counterclaim; and any inadequacies in performance under the agreement by the counterclaimant.

*Standard Requests for the Production of Documents for Agreement-Based Counterclaims*

In addition to the standard document requests that all parties must satisfy, the Office proposes that both agreement-

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

<sup>2</sup> See, e.g., H.R. Rep. No. 116–252, at 18–20 (2019); S. Rep. No. 116–105, at 7–8 (2019).

<sup>3</sup> 86 FR 16156 (Mar. 26, 2021).

<sup>4</sup> 86 FR 69890 (Dec. 8, 2021); 86 FR 53897 (Sept. 29, 2021).

<sup>5</sup> 87 FR 12861 (Mar. 8, 2022) (initial proceedings partial final rule); 87 FR 16989 (Mar. 25, 2022)

(initial proceedings final rule); 87 FR 24056 (Apr. 22, 2022) (initial proceedings correction); 87 FR 30060 (May 17, 2022) (active proceedings final rule); 87 FR 36060 (June 15, 2022) (active proceedings correction).

<sup>6</sup> 17 U.S.C. 1504(c)(4)(B)(i)–(ii).

<sup>7</sup> 86 FR 53897, 53903.

<sup>8</sup> 87 FR 16989, 16999–17000, 17005; see also 37 CFR 222.9(c)(3)(iii)(D).

<sup>9</sup> The term “counterclaim respondent” refers to a claimant that has received a counterclaim.

based counterclaimants and counterclaim respondents should be subject to several additional requests. These standard document requests for agreement-based counterclaims should include: the agreement at issue and documents related to that agreement, including any amendments or revisions; documents related to the validity of the agreement; and documents related to the parties' performance under the agreement. In addition, with regard to a counterclaimant's damages claim, the Office proposes slightly different document requests for a counterclaimant and a counterclaim respondent. Agreement-based counterclaimants must produce documents relevant to damages arising out of the counterclaim, including documents sufficient to show the damages suffered due to the violation of the agreement in question. In turn, counterclaim respondents must produce documents relevant to damages, including any documents sufficient to show the lack of damages suffered by the counterclaimant from the alleged violation of the agreement.

The Office remains committed to ensuring that "the discovery regulations strike the right balance between allowing necessary access to information and being too burdensome."<sup>10</sup> It previously adjusted the language for infringement-related standard discovery requests after hearing from the public that the initially proposed language may have been unnecessarily burdensome.<sup>11</sup> With respect to the proposed rules for document requests for parties to agreement-based counterclaims, the Office is interested in hearing whether the proposed "relevant to" language for damages document requests strikes the right balance. The Office notes that the "relevant to" language is not included in damages-related document requests for infringement, declaration of noninfringement, or misrepresentation claims or counterclaims, which are all limited to documents "sufficient to show" damages.<sup>12</sup>

#### List of Subjects in 37 CFR Parts 222 and 225

Claims, Copyright.

#### Proposed Regulations

For the reasons stated in the preamble, the U.S. Copyright Office amends 37 CFR parts 222 and 225 as follows:

#### PART 222—PROCEEDINGS

■ 1. The authority citation for part 222 continues to read as follows:

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

■ 2. Amend § 222.9 by redesignating paragraphs (c)(6) through (c)(8) as paragraphs (c)(7) through (c)(9) and adding paragraph (c)(6) to read as follows.

##### § 222.9 Counterclaim.

\* \* \* \* \*

(c) \* \* \*

(6) For a counterclaim arising under an agreement asserted under paragraph (c)(2)(iv) of this section—

(i) A description of the agreement that the counterclaim is based upon;

(ii) A brief statement describing how the agreement pertains to the same transaction or occurrence that is the subject of the infringement claim against the counterclaimant; and

(iii) A brief statement describing how the agreement could affect the relief awarded to the claimant;

\* \* \* \* \*

■ 3. Amend § 222.10 by redesignating paragraph (b)(6) as paragraph (b)(7) and adding paragraph (b)(6) to read as follows:

##### § 222.10 Response to counterclaim.

\* \* \* \* \*

(b) \* \* \*

(6) For counterclaims arising under an agreement, as set forth in 37 CFR 222.9(c)(2)(iv), a statement describing in detail the dispute regarding the contractual counterclaim, including any defenses as well as an explanation of why the counterclaim respondent believes the counterclaimant's position regarding the agreement lacks merit; and

\* \* \* \* \*

#### PART 225—DISCOVERY

■ 4. The authority citation for part 225 continues to read as follows:

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

■ 5. Amend § 225.2 by redesignating paragraph (f) as paragraph (h) and adding paragraphs (f) and (g) to read as follows:

##### § 225.2 Standard interrogatories.

\* \* \* \* \*

(f) *For a counterclaimant asserting a counterclaim arising under an agreement.* In addition to the information in paragraph (a) of this section, the *standard interrogatories* for a counterclaimant asserting a counterclaim arising under an agreement shall consist of information pertaining to:

(1) Identification and a description of the specific terms or provisions of the agreement the counterclaim respondent is alleged to have violated;

(2) The basis for the counterclaimant's belief that the agreement was valid;

(3) The basis for the counterclaimant's belief that the agreement was violated;

(4) The basis for the counterclaimant's belief that the agreement could affect the relief that might be awarded to the claimant;

(5) A description of the counterclaimant's performance under the agreement, as relevant to the counterclaim;

(6) Identification and a description of any inadequacies in performance under the agreement by the counterclaim respondent; and

(7) If the agreement at issue in the counterclaim is oral, a description of the terms and provisions of the agreement.

(g) *For a counterclaim respondent responding to a counterclaim arising under an agreement.* In addition to the information in paragraph (a) of this section, the *standard interrogatories* for a counterclaim respondent responding to a counterclaim arising under an agreement shall consist of information pertaining to:

(1) All defenses asserted to the counterclaim arising under an agreement and the basis for those assertions. Defenses listed in timely answers and timely updated answers to the *standard interrogatories* shall be considered by the Board and will not require an amendment of the counterclaim response;

(2) The basis for any other reasons the counterclaim respondent believes that it did not violate the agreement or that the agreement was not valid;

(3) The basis for any belief by the counterclaim respondent that the agreement does not affect the relief that might be awarded to the claimant;

(4) A description of the counterclaim respondent's performance under the agreement, as relevant to the counterclaim; and

(5) Identification and a description of any inadequacies in performance under the agreement by the counterclaimant.

\* \* \* \* \*

■ 6. Amend § 225.3 by redesignating paragraphs (f) and (g) as paragraphs (h) and (i) and adding paragraphs (f) and (g) to read as follows:

##### § 225.3 Standard requests for the production of documents.

\* \* \* \* \*

(f) *For a counterclaimant asserting a counterclaim arising under an agreement.* In addition to the information in paragraph (a) of this

<sup>10</sup> 87 FR 30060, 30060.

<sup>11</sup> See *id.* at 30070–71.

<sup>12</sup> 37 CFR 225.3(b)(6), (c)(4), (d)(4).

section, the *standard requests for the production of documents* for a party asserting a counterclaim arising under an agreement shall include copies of:

(1) The agreement at issue in the counterclaim arising under an agreement, including any amendments or revisions;

(2) Documents related to the agreement at issue, including any amendments or revisions and documents related to the validity of and the parties' performance under the agreement; and

(3) Documents relevant to damages arising out of the counterclaim, including documents sufficient to show the damages suffered by the counterclaimant related to violation of the agreement in question.

(g) *For a counterclaim respondent responding to a counterclaim arising under an agreement.* In addition to the information in paragraph (a) of this section, the *standard requests for the production of documents* for a counterclaim respondent responding to a counterclaim arising under an agreement shall include copies of:

(1) The agreement at issue in the counterclaim arising under an agreement, including any amendments or revisions;

(2) Documents related to the agreement at issue, including any amendments or revisions and documents related to the validity of and the parties' performance under the agreement; and

(3) Documents relevant to damages, including documents sufficient to show the lack of damages suffered by the counterclaimant related to the counterclaim respondent's alleged violation of the agreement in question.

\* \* \* \* \*

Dated: April 25, 2023.

**Suzanne V. Wilson,**

*General Counsel and Associate Register of Copyrights.*

[FR Doc. 2023-09055 Filed 5-2-23; 8:45 am]

**BILLING CODE 1410-30-P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

**41 CFR Parts 51-2, 51-3, and 51-5**

**RIN 3037-AA14**

### Supporting Competition in the AbilityOne Program; Extension of Comment Period

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On March 13, 2023, the Committee for Purchase from People Who Are Blind or Severely Disabled (Committee), operating as the U.S. AbilityOne Commission (Commission), published a proposed rule, Supporting Competition in the AbilityOne Program, with a 60-day comment period ending on May 11, 2023. The Commission has determined that a 30-day extension of the comment period, until June 12, 2023, is appropriate. The Commission is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

**DATES:** The comment period for the proposed rule, Supporting Competition in the AbilityOne Program, published March 13, 2023, at 88 FR 15360, is extended. Electronic comments should be received no later than 11:59 p.m. Eastern Time on June 12, 2023.

**ADDRESSES:** Interested persons may submit comments by using the following method: internet—Federal eRulemaking Portal. Electronic comments may be submitted through <https://www.regulations.gov>. To locate the proposed rule, use RIN 3037-AA14. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

**Accessible Format:** On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an alternative accessible format.

**FOR FURTHER INFORMATION CONTACT:** Cassandra Assefa, Regulation and Policy Counsel, by telephone at 202-430-9886 or by email at [cassefa@abilityone.gov](mailto:cassefa@abilityone.gov).

**SUPPLEMENTARY INFORMATION:** On March 13, 2023, the Commission published a proposed rule, Supporting Competition in the AbilityOne Program. The proposed rule would clarify the Commission's authority to consider different pricing methodologies in establishing the Fair Market Price (FMP) for Procurement List (PL) additions and changes to the FMP; better define the parameters for conducting fair and equitable competitive allocations amongst multiple qualified Nonprofit Agencies (NPAs); and clarify the responsibilities and procedures associated with authorizing and deauthorizing NPA.

The Commission has received requests for an extension of the 60-day

comment period. The Commission has considered the requests and is extending the comment period for the proposed rule until June 12, 2023. The Commission believes that this extension allows adequate time for interested persons to submit comments.

**Michael R. Jurkowski,**

*Acting Director, Business Operations.*

[FR Doc. 2023-09236 Filed 5-2-23; 8:45 am]

**BILLING CODE 6350-01-P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

**45 CFR Part 1110**

### Removal of Freedom of Information Act Regulation Issued by National Foundation on the Arts and the Humanities

**AGENCY:** National Endowment for the Arts, National Endowment for the Humanities, Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This rulemaking rescinds the National Foundation on the Arts and the Humanities' (the "Foundation") regulations implementing the Freedom of Information Act ("FOIA"). These regulations are obsolete because each of the Foundation's constituent agencies—the National Endowment for the Arts ("NEA"), the National Endowment for the Humanities ("NEH"), the Institute of Museum and Library Services ("IMLS"), and the Federal Council on the Arts and the Humanities ("FCAH")—either have adopted their own, agency-specific regulations, or are not required to implement Freedom of Information Act regulations.

**DATES:** The public comment period for the proposed rule opens on May 3, 2023. Written comments must be received on or before June 2, 2023.

**ADDRESSES:** You may submit comments, identified by RIN 3135-AA26, by any of the following methods:

(a) *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

(b) *Email:* [generalcounsel@arts.gov](mailto:generalcounsel@arts.gov). Include RIN 3135-AA26 in the subject line of the message.

(c) *Mail:* National Endowment for the Arts, Office of General Counsel, 400 7th Street SW, Second Floor, Washington, DC 20506.

(d) *Hand Delivery/Courier:* National Endowment for the Arts, Office of the General Counsel, 400 7th Street SW, Second Floor, Washington, DC 20506.