ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (''COLA'') of 2.2% in the royalty rates paid by satellite carriers under the satellite carrier compulsory license of the Copyright Act. The COLA is based on the change in the Consumer Price Index from October 2011 to October 2012.

DATES: *Effective Date:* January 1, 2013.

Applicability Dates: These rates are applicable for the period January 1, 2013, through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist. Telephone: (202) 707–7658. Email: *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The satellite carrier compulsory license establishes a statutory copyright licensing scheme for the retransmission of distant television programming by satellite carriers. 17 U.S.C. 119. Congress created the license in 1988 and has reauthorized the license for additional five-year periods, most recently with the passage of the Satellite Television Extension and Localism Act of 2010, (''STELA''), Public Law 111–175.

The Copyright Royalty Judges adopted as final the rates for the section 119 compulsory license for the period 2010–2014 after publication in the **Federal Register** of the rates, as proposed by Copyright Owners and Satellite Carriers,[1] yielded no objections. *See* 75 FR 53198 (August 31, 2010). Section 119(c)(2) requires the Judges annually to adjust these rates ''to reflect any changes occurring in the cost of living adjustment (for all consumers and for all items) [''CPI–U''] published * * * at least 25 days before January 1.'' *Id.* Today's notice fulfills this obligation.

The change in the cost of living as determined by the CPI–U during the period from the most recent index published before December 1, 2011, to the most recent index published before December 1, 2012, is 2.2%.[2] Rounding to the nearest cent, the royalty rates for the secondary transmission of broadcast stations by satellite carriers for private home viewing and viewing in commercial establishments are 27 cents and 54 cents per subscriber per month, respectively.

List of Subjects in 37 CFR Part 386

Copyright, Satellite, Television.

Final Regulations

For the reasons set forth in the preamble, part 386 of title 37 of the Code of Federal Regulations is amended as follows:

PART 386—ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

■ 1. The authority citation for part 386 continues to read as follows:

Authority: 17 U.S.C. 119(c), 801(b)(1).

■ 2. Section 386.2 is amended by revising paragraphs (b)(1)(iv) and (b)(2)(iv) as follows:

§ 386.2 Royalty fee for secondary transmission by satellite carriers.

* * * * *

(b)(1) * * *

(iv) 2013: 27 cents per subscriber per month;

* * * * *

(2) * * *

(iv) 2013: 54 cents per subscriber per month;

* * * * *

Dated: November 19, 2012.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2012–28507 Filed 11–23–12; 8:45 am]

BILLING CODE 1410–72–P

[1] Program Suppliers and Joint Sports Claimants comprised the Copyright Owners, while DIRECTV, Inc., DISH Network, LLC and National Programming Service, LLC, comprised the Satellite Carriers.

[2] The most recent CPI–U figures are published in November of each year and use the period 1982–1984 to establish a reference base of 100. The index for October 2011 was 226.421, while the figure for October 2012 was 231.414.

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AO30

Servicemembers' Group Life Insurance—Stillborn Child Coverage

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This final rule amends the Department of Veterans Affairs (VA) Servicemembers' Group Life Insurance (SGLI) regulations in order to provide that, if a stillborn child is otherwise eligible to be insured by the SGLI coverage of more than one servicemember under SGLI dependent child coverage, the child would be insured by the coverage of the child's SGLI-insured biological mother. This final rule will provide consistency in payment determinations involving SGLI stillborn child coverage.

DATES: *Effective Date:* This final rule is effective December 26, 2012.

Applicability Date: This final rule will apply to claims for SGLI proceeds filed on or after December 26, 2012.

FOR FURTHER INFORMATION CONTACT: Monica Keitt, Attorney-Advisor, Department of Veterans Affairs Regional Office and Insurance Center (310/290B), P.O. Box 8079, Philadelphia, Pennsylvania 19101, (215) 842–2000, Ext. 2905. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On January 31, 2012, VA published in the **Federal Register** (77 FR 4734) a proposed rule to provide that, if a stillborn child is insured by the SGLI coverage of more than one servicemember, the SGLI proceeds would be paid to the child's SGLI-insured mother. We provided a 60-day public-comment period, which ended on April 2, 2012, and received comments from five individuals.

Section 1967(a)(4)(B) of title 38, United States Code, prohibits an insurable dependent who is a child from being insured at any time under the SGLI coverage of more than one member, i.e., more than one SGLI-insured parent. If a child is otherwise eligible to be insured by the coverage of more than one member, under section 1967(a)(4)(B) the child is insured by the coverage of the member whose eligibility for SGLI occurred first, ''except that if that member does not have legal custody of the child, the child shall be insured by the coverage of the member who has legal custody of the child.'' Congress, however, did not indicate whether this provision is applicable to a stillborn child. VA therefore proposed to fill the gap left by Congress subjecting the coverage of a stillborn child to the limitation that an insurable dependent who is a child may not be insured at any time by the insurance coverage of more than one member. We further proposed that a stillborn child of two SGLI-covered parents will always be insured under the mother's coverage because state laws do not address legal custody of a stillborn.

Two commenters wrote in support of the proposed rule. Three of the commenters raised issues regarding the proposed rule.

One commenter stated that the rule does not take into account a case in which a stillborn child's parents are the same sex and urged flexibility in the rule so as not to prejudice homosexual couples. The premise of this comment, that a stillborn child could have parents of the same sex, is mistaken. VA has

defined the term ''member's stillborn child'' in 38 CFR 9.1(k)(1) to mean ''a member's natural child'' who meets other criteria not relevant to this discussion. The term ''natural child'' refers to a biological child. *Black's Law Dictionary* 272 (9th ed. 2009); *see Luke* v. *Bowen,* 868 F.2d 974, 978 (8th Cir. 1989). As a result, this rule is applicable only if both biological parents of the stillborn child are SGLI-insured. There can be only two biological parents of a child: The mother who provided the ovum that was fertilized and the father who provided the semen that fertilized the ovum. *Black's Law Dictionary* 1222 (defining ''biological parent'' as woman who provides egg or man who provides sperm to form zygote that becomes embryo). Thus, there cannot be two biological parents of the same sex. We make no change based on this comment.

Other commenters inquired about a case in which a stillborn child is born to a surrogate for a SGLI-insured. As explained above, in accordance with 38 U.S.C. 1967, this rule is only applicable if the stillborn's biological parents are both insured under SGLI. Generally, there are two types of surrogacy: (1) A surrogate is inseminated with sperm which fertilizes her own ovum, resulting in a child who is biologically related to her; and (2) a surrogate is impregnated with an embryo that is not the product of her ovum, resulting in a child who is not biologically related to her. If a surrogate is the biological mother of a stillborn and if both the surrogate and the stillborn's biological father are SGLI-insureds, the SGLI proceeds would be payable to the surrogate under this rule. Again, this outcome would be consistent with one reason provided for the proposed rule, i.e., the stillborn child was exclusively in the surrogate's physical custody. 77 FR 4734. If however a surrogate is not the biological mother of the stillborn and if both of the stillborn's biological parents are SGLI-insureds, the SGLI proceeds would be payable to the stillborn's biological mother under this rule. To ensure the clarity of the rule in this regard, we are changing the reference to ''the child's insured mother'' to read ''the child's insured biological mother.''

One commenter stated that, generally with regard to life insurance, if an insured mother dies prior to the stillborn or seconds after giving birth to a stillborn, the proceeds would become part of the mother's estate and that, if she dies intestate, the proceeds would pass in accordance with intestacy laws. This situation is covered by 38 U.S.C. 1970(i), which directs that, if a member dies before payment can be made on account of the member's insurable dependent's death, the SGLI proceeds payable on account of the insurable dependent's death are payable to the person or persons entitled to the proceeds payable on account of the member's death. Therefore, if an insured mother gave birth to a stillborn and died before payment on account of the stillborn child could be made to her, the SGLI proceeds payable on account of the stillborn would be payable to the person or persons entitled to the proceeds payable on account of the mother's death. Only if the mother had no designated beneficiary, surviving spouse, child, or parent would the proceeds be paid to the executor or administrator of the insured mother's estate. 38 U.S.C. 1970(a).

One commenter also noted that the rule might eliminate the opportunity for notifying the stillborn child's father about the stillbirth in some circumstances. This comment is beyond the scope of the rulemaking, which is intended to explain which member's SGLI would insure a stillborn who is otherwise eligible to be insured by the SGLI coverage of more than one member.

This commenter also stated that the rule would impose on the mother additional burdens associated with insurance coverage on the birth of a stillborn child. The commenter referenced paperwork to be filled out to initiate a claim and other fees, deductibles, or administrative requirements, all of which would have to be borne by the birth mother, regardless of her preferences or the family's preferences regarding insurance coverage. As explained in the preamble to the proposed rule, 77 FR 4734, this amendment will obviate the need to establish paternity following the birth of a stillborn child, which we believe would impose far more onerous burdens than completing a claim to recover the SGLI proceeds. Further, there are no fees, deductibles, or other administrative requirements necessary to file a claim for SGLI family coverage that would impose a burden on the mother of the stillborn child. We also believe that this rule will have the beneficial effect of providing clear, definite guidance to members and their families as to how SGLI family coverage will be paid in the event of a stillbirth. We therefore make no change based upon this comment.

Another commenter stated that the rule ignores the fact that the stillborn child's parents may choose that the father of the child receive payment of SGLI proceeds instead of the mother. In such circumstances, the stillborn's mother can simply give the proceeds to the stillborn's father. We therefore do not believe this rule needs to be amended to address this situation.

A commenter disagreed with VA's assessment that the rule does not require a cost-benefit analysis. The commenter stated that, as required by Executive Orders 12866 and 13563, before promulgating the rule, VA should complete a cost-benefit analysis of the rule regarding its effect on same sex couples who use a surrogate. The commenter's premise is mistaken. In the notice of proposed rulemaking, VA did not state that a cost-benefit analysis was not required. In fact, VA's analysis of the proposed rule is publicly available on the VA Web site at *http://www.va.gov/ORPM/VA_Regulations_Published_From_Fiscal_Year_FY_2004.asp.* Rather VA stated that ''VA has examined the economic, interagency, legal, and policy implications of this proposed rule and has determined it not to be a significant regulatory action under Executive Order 12866.'' 77 FR 4735. We therefore make no change based on this comment.

Based on the rationale set forth in the proposed rule and upon consideration of the public comments submitted, we adopt the provisions of the proposed rule as a final rule, with the changes noted above.

We are also making one non-substantive change to the regulations governing the birth of a stillborn child. We are substituting the word ''biological'' for the word ''natural'' in the definition of ''member's stillborn child'' in § 9.1(k)(1). We are not altering the substantive content of the definition by making this change but rather are substituting a more current term for an outdated one.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This rule would have no such effect on State, local, and tribal governments or on the private sector.

Paperwork Reduction Act

This final rule contains no provision constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and

benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

VA has examined the economic, interagency, legal, and policy implications of this final rule and has determined that it is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The catalog of Federal Domestic Assistance Program number and the title for this regulation is 64.103, Life Insurance for Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, approved this document on November 20, 2012, for publication.

List of Subjects in 38 CFR Part 9

Life insurance, Military personnel, Veterans.

Dated: November 20, 2012.

Robert C. McFetridge,

Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs is amending 38 CFR part 9 as follows:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

§ 9.1 [Amended]

■ 2. Amend § 9.1(k)(1) by removing ''natural'' and adding, in its place, ''biological''.

■ 3. Amend § 9.5 by adding paragraph (f) and revising the authority citation at the end of the section to read as follows:

§ 9.5 Payment of proceeds.

* * * * *

(f) If a stillborn child is otherwise eligible to be insured by the Servicemembers' Group Life Insurance coverage of more than one member, the child shall be insured by the coverage of the child's insured biological mother.

(Authority: 38 U.S.C. 501(a), 1965(10), 1967(a)(4)(B))

[FR Doc. 2012–28611 Filed 11–23–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0734; FRL–9753–4]

Withdrawal of Approval of Air Quality Implementation Plans and Findings of Failure To Submit Required Plans; California; San Joaquin Valley; 1-Hour and 8-Hour Ozone Extreme Area Plan Elements

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is withdrawing its March 8, 2010 final action approving State Implementation Plan (SIP) revisions submitted by California to provide for attainment of the 1-hour ozone National Ambient Air Quality Standards (NAAQS) in the San Joaquin Valley extreme ozone nonattainment area. In addition, EPA is withdrawing its March 1, 2012 determination that the California SIP satisfies the requirement regarding offsetting emissions growth caused by growth in vehicle miles traveled (VMT) under the Clean Air Act (CAA) for the 1997 8-hour ozone NAAQS in the San Joaquin Valley. Finally, EPA is finding that California has failed to submit required SIP revisions to provide for attainment of the 1-hour ozone NAAQS and to address the VMT emissions offset requirement for the 1997 8-hour ozone NAAQS in the San Joaquin Valley. Under the CAA, these findings of failure to submit trigger the 18-month time clock for mandatory imposition of sanctions and the two-year time clock for EPA to promulgate federal implementation plans.

DATES: The rule is effective November 26, 2012.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0734 for this action. The index to the docket is available electronically at *www.regulations.gov* and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some may be publicly available only at the hard copy location (e.g., copyrighted material) and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Air Planning Office (AIR–2), (415) 972–3957, *wicher.frances@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we'', ''us'' and ''our'' refer to EPA.

Table of Contents