**Executive Orders 12866 and 13563**

*Regulatory Impact Analysis*

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement 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 the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. The benefits of the Rehabilitation Long-Term Training program have been well established over the years through the successful completion of similar projects. Grants to provide funding for scholars to acquire master's degrees in VR counseling are needed to ensure that State VR agencies and related agencies have a supply of qualified VR counselors with the skills to assist individuals with disabilities to achieve employment in today's economy.

*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:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: October 30, 2013.

**Michael K. Yudin,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2013–26500 Filed 11–4–13; 8:45 am]

**BILLING CODE 4000–01–P**

## LIBRARY OF CONGRESS

## Copyright Royalty Board

## 37 CFR Part 384

**[Docket No. 2012–1 CRB Business Establishments II]**

## Determination of Rates and Terms for Business Establishment Services

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Royalty Judges are publishing final regulations setting the rates and terms for the making of an ephemeral recording of a sound recording by a business establishment service for the period January 1, 2014, through December 31, 2018.

**DATES:** *Effective date:* January 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor. Telephone: (202) 707–8658. Email: *crb@loc.gov.*

**SUPPLEMENTARY INFORMATION:** In 1995, Congress enacted the Digital Performance in Sound Recordings Act, Public Law 104–39, which created an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly sound recordings by means of certain digital audio transmissions. Among the limitations on the performance right was the creation of a statutory license for nonexempt, noninteractive digital subscription transmissions. 17 U.S.C. 114(d).

Congress expanded the scope of the section 114 statutory license in the Digital Millennium Copyright Act of 1998 (DMCA), Public Law 105–34. The DMCA authorizes the public performance of a sound recording when the sound recording is made by a preexisting satellite digital audio radio service or as part of an eligible nonsubscription transmission in accordance with the terms and rates of the statutory license. *See* 17 U.S.C. 114(d). The DMCA also created a statutory license for the making of an ''ephemeral recording'' of a sound recording by certain transmitting organizations. 17 U.S.C. 112(e). This license allows entities that transmit performances of sound recordings to business establishments, pursuant to the limitations set forth in section 114(d)(1)(C)(iv), to make an ephemeral recording to facilitate transmission of a public performance of a sound recording. *Id.* The license also provides a means by which a transmitting entity with a statutory license under section 114(f) can make more than one phonorecord permitted under the exemption set forth in section 112(a). *Id.*

The Copyright Act requires the Copyright Royalty Judges (Judges) to conduct proceedings every five years to determine the rates and terms for ''the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv).'' 17 U.S.C. 801(b)(1), 804(b)(2).[1] Thus, the Judges, in accordance with 17 U.S.C. 804(b)(2), published a notice in the **Federal Register** commencing the current proceeding to set rates and terms for the section 112(e) license and requesting interested parties to submit their petitions to participate. 77 FR 133 (Jan. 3, 2012). In response to the notice, the Judges received petitions to participate from: Pandora Media, Inc.; Music Choice; DMX, Inc.; Muzak, LLC; Music Reports, Inc.; Clear Channel Broadcasting, Inc.; SoundExchange, Inc.; and Sirius XM Radio, Inc. The Judges set the timetable for the three-month negotiation period, *see* 17 U.S.C. 803(b)(3), as well as a deadline of November 16, 2012, for the participants' submission of written direct statements. Subsequently, the Judges granted the participants' request to extend the deadline to November 29, 2012, in order to allow the participants to finalize a settlement agreement. *See Order Granting Joint Motion for Extension of Time for Filing Written Direct Statements,* Docket No. 2012–1 CRB Business Establishments II (Nov. 14, 2012). On November 29, 2012, the Judges received a Motion to Adopt Settlement stating that all participants had reached a settlement obviating the need for a hearing.

Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt rates and terms negotiated by ''some or all of the participants in a proceeding at any time during the proceeding'' provided they are submitted to the Judges for approval. This section provides in part that the Judges must provide to both non-participants and participants to the rate proceeding who ''would be bound by the terms, rates, or other determination set by any agreement * * * an opportunity to comment on the agreement.'' 17 U.S.C. 801(b)(7)(A)(i). Participants to the proceeding may also ''object to [the agreement's] adoption as a basis for statutory terms and rates.'' *Id.*

The Judges ''may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,'' only ''if any participant [to the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.'' 17 U.S.C. 801(b)(7)(A)(ii). Accordingly, on July 19, 2013, the Judges published a notice requesting comment on the proposed rates and terms. 78 FR 43094. The Judges received no comments or objections in response to the July 19 notice.

Having received no comments or objections to the proposal, the Judges, by this notice, are adopting as final regulations the rates and terms for the making of an ephemeral recording by a business establishment service for the period January 1, 2014, through December 31, 2018.

**List of Subjects in 37 CFR Part 384**

Copyright, Digital audio transmissions, Ephemeral recordings, Performance right, Sound recordings.

**Final Regulations**

For the reasons set forth in the preamble, the Copyright Royalty Judges amend Part 384 of Chapter III of title 37 of the Code of Federal Regulations as follows:

## PART 384—RATES AND TERMS FOR THE MAKING OF EPHEMERAL RECORDINGS BY BUSINESS ESTABLISHMENT SERVICES

■ 1. The authority citation for part 384 continues to read as follows:

**Authority:** 17 U.S.C. 112(e), 801(b)(1).

### § 384.1 [Amended]

■ 2. Section 384.1 is amended as follows:

■ a. In paragraph (a), by removing ''§ 384.2(a)'' and adding ''§ 384.2'' in its place, and by removing ''2009–2013'' and adding ''January 1, 2014, through December 31, 2018'' in its place;

■ b. In paragraph (b), by removing ''licenses set forth in 17 U.S.C. 112'' and adding ''license set forth in 17 U.S.C. 112(e)'' in its place; and

■ c. In paragraph (c), by removing ''services'' and adding ''Licensees'' in its place.

■ 3. Section 384.2 is amended by revising the definition for ''*Copyright Owner*'' to read as follows:

### § 384.2 Definitions.

* * * * *

*Copyright Owners* are sound recording copyright owners who are entitled to royalty payments made under this part pursuant to the statutory license under 17 U.S.C. 112(e).

* * * * *

### § 384.3 [Amended]

■ 4. Section 384.3 is amended as follows:

■ a. In paragraph (a), by removing ''service pursuant to the limitation on exclusive rights specified by 17 U.S.C. 114(d)(1)(C)(iv)'' and adding ''Business Establishment Service'' in its place and removing ''10%'' and adding ''12.5%'' in its place; and

■ b. In paragraph (b), by removing ''$10,000 for each calendar year'' and adding ''$10,000 for each calendar year of the License Period'' in its place.

■ 5. Section 384.4 is amended as follows:

[1] The Judges commenced a proceeding in 2007, as directed by section 804(b)(2) of the Copyright Act, and published final regulations in the **Federal Register** on March 27, 2008. 73 FR 16199. Therefore, commencement of the next proceeding—the current proceeding—was to occur in January 2012. 17 U.S.C. 804(b)(2).

■ a. By revising the paragraph heading for paragraph (a);
■ b. In paragraph (b)(2)(i), by removing ''condition precedent in paragraph (b)(2) of this section'' and adding ''condition precedent in this paragraph (b)(2)'' in its place, and by removing ''authorized such Collective'' and adding ''authorized the Collective'' in its place;
■ c. By revising paragraphs (c) through (e);
■ d. By revising introductory text of paragraph (f);
■ e. In paragraph (f)(2), by removing ''facsimile number'' and adding ''facsimile number (if any)'' in its place, and by removing ''individual or individuals'' and adding ''person'' in its place;
■ f. In paragraph (f)(3), by removing ''handwritten'';
■ g. In paragraph (f)(3)(i), by removing ''a corporation'' and adding ''corporation'' in its place;
■ h. In paragraph (f)(6), by removing ''a corporation'' and adding ''corporation'' in its place;
■ i. In paragraph (f)(8), by removing ''if the Licensee is a corporation or partnership,'';
■ j. By revising paragraphs (g) and (h); and
■ k. By removing paragraph (i).

The revisions read as follows:

**§ 384.4 Terms for making payment of royalty fees and statements of account.**

(a) *Payment to the Collective.* * * * * * * * * *

(c) *Monthly payments.* A Licensee shall make any payments due under § 384.3(a) on a monthly basis on or before the 45th day after the end of each month for that month. All monthly payments shall be rounded to the nearest cent.

(d) *Minimum payments.* A Licensee shall make any minimum payment due under § 384.3(b) by January 31 of the applicable calendar year, except that payment by a Licensee that has not previously made Ephemeral Recordings pursuant to the license under 17 U.S.C. 112(e) shall be due by the 45th day after the end of the month in which the Licensee commences to do so.

(e) *Late payments.* A Licensee shall pay a late fee of 1.0% per month, or the highest lawful rate, whichever is lower, if either or both a required payment or statement of account for a required payment is received by the Collective after the due date. Late fees shall accrue from the due date until both the payment and statement of account are received by the Collective.

(f) *Statements of account.* For any part of the License Period during which a Licensee operates a Business Establishment Service, at the time when a minimum payment is due under paragraph (d) of this section, and by 45 days after the end of each month during the period, the Licensee shall deliver to the Collective a statement of account containing the information set forth set forth in this paragraph (f) on a form prepared, and made available to Licensees, by the Collective. In the case of a minimum payment, or if a payment is owed for such month, the statement of account shall accompany the payment. A statement of account shall contain only the following information:
* * * * * *

(g) *Distribution of royalties.* (1) The Collective shall promptly distribute royalties received from Licensees directly to Copyright Owners, or their designated agents, that are entitled to such royalties. The Collective shall only be responsible for making distributions to those Copyright Owners or their designated agents who provide the Collective with such information as is necessary to identify the correct recipient. The Collective shall distribute royalties on a basis that values all Ephemeral Recordings by a Licensee equally based upon the information provided under the reports of use requirements for Licensees contained in § 370.4 of this chapter.

(2) If the Collective is unable to locate a Copyright Owner entitled to a distribution of royalties under paragraph (g)(1) of this section within 3 years from the date of payment by a Licensee, such royalties shall be handled in accordance with § 384.8.

(h) *Retention of records.* Books and records of a Licensee and of the Collective relating to payments of and distributions of royalties shall be kept for a period of not less than the prior 3 calendar years.

**§ 384.5 [Amended]**

■ 6. Section 384.5 is amended as follows:
■ a. In paragraph (a), by removing ''part'' and adding ''section'' in its place, and by removing ''account, any information'' and adding ''account and any information'' in its place;
■ b. In paragraph (b), by removing ''The Collective shall have'' and adding ''The party claiming the benefit of this provision shall have'' in its place;
■ c. In paragraph (c), by removing ''activities directly related thereto'' and adding ''activities related directly thereto'' in its place;
■ d. In paragraph (d)(1), by removing ''work, require access to the records'' and adding ''work require access to Confidential Information'' in its place;
■ e. In paragraph (d)(2), by removing ''Collective committees'' and adding ''the Collective committees'' in its place, and by removing ''confidential information'' and adding ''Confidential Information'' in its place each place it appears;
■ f. In paragraph (d)(3), by removing ''respect to the verification of a Licensee's royalty payments'' and adding ''respect to verification of a Licensee's statement of account'' in its place;
■ g. In paragraph (d)(4), by removing ''Copyright owners whose works'' and adding ''Copyright Owners, including their designated agents, whose works'' in its place, by removing '', or agents thereof'', and by removing ''confidential information'' and adding ''Confidential Information'' in its place; and
■ h. In paragraph (e), by removing ''to safeguard all Confidential Information'' and adding ''to safeguard against unauthorized access to or dissemination of any Confidential Information'' in its place, and by removing ''belonging to such Collective'' and adding ''belonging to the Collective'' in its place.

■ 7. Section 384.6 is amended by revising paragraph (d) to read as follows:

**§ 384.6 Verification of royalty payments.**

* * * * * *

(d) *Acquisition and retention of report.* The Licensee shall use commercially reasonable efforts to obtain or to provide access to any relevant books and records maintained by third parties for the purpose of the audit. The Collective shall retain the report of the verification for a period of not less than 3 years.
* * * * * *

■ 8. Section 384.7 is amended as follows:
■ a. In paragraph (a), by removing ''Provided'' and adding ''provided'' in its place; and
■ b. By revising paragraph (d).

The revision reads as follows:

**§ 384.7 Verification of royalty distributions.**

* * * * * *

(d) *Acquisition and retention of record.* The Collective shall use commercially reasonable efforts to obtain or to provide access to any relevant books and records maintained by third parties for the purpose of the audit. The Copyright Owner requesting the verification procedure shall retain the report of the verification for a period of not less than 3 years.
* * * * * *

■ 9. Section 384.8 is revised to read as follows:

**§ 384.8 Unclaimed funds.**

If the Collective is unable to identify or locate a Copyright Owner who is entitled to receive a royalty distribution under this part, the Collective shall retain the required payment in a segregated trust account for a period of 3 years from the date of distribution. No claim to such distribution shall be valid after the expiration of the 3-year period. After expiration of this period, the Collective may apply the unclaimed funds to offset any costs deductible under 17 U.S.C. 114(g)(3). The foregoing shall apply notwithstanding the common law or statutes of any State.

Dated: September 18, 2013.

**Suzanne M. Barnett,**

*Chief Copyright Royalty Judge.*

Approved by:

**James H. Billington,**

*Librarian of Congress.*

[FR Doc. 2013–26382 Filed 11–4–13; 8:45 am]

**BILLING CODE 1410–72–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9 and 721

**[EPA–HQ–OPPT–2013–0399; FRL–9902–16]**

**RIN 2070–AB27**

### Significant New Use Rules on Certain Chemical Substances; Removal of Significant New Use Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is removing significant new use rules (SNURs) promulgated under the Toxic Substances Control Act (TSCA) for chemical substances identified as alkanes, C21–34—branched and linear, chloro; alkanes, C22–30—branched and linear, chloro; and alkanes, C24–28, chloro, which were the subject of premanufacture notices (PMNs) P–12–539, P–13–107, and P–13–109, respectively. EPA published these SNURs using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on the rules. Therefore, the Agency is removing these SNURs, as required under the expedited SNUR rulemaking process. EPA intends to publish in the near future proposed SNURs for these three chemical substances under separate notice and comment procedures.

**DATES:** This final rule is effective November 5, 2013.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2013–0399, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Does this action apply to me?

A list of potentially affected entities is provided in the **Federal Register** of August 7, 2013 (78 FR 48051) (FRL–9393–4). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

#### II. What rules are being removed?

In the **Federal Register** of August 7, 2013 (78 FR 48051), EPA issued several direct final SNURs, including SNURs for the chemical substances that are the subject of this removal. These direct final rules were issued pursuant to the procedures in 40 CFR part 721, subpart D. In accordance with § 721.160(c)(3)(ii), EPA is removing the rules issued for chemical substances identified as alkanes, C21–34—branched and linear, chloro; alkanes, C22–30—branched and linear, chloro; and alkanes, C24–28, chloro, which were the subject of PMNs P–12–539, P–13–107, and P–13–109, respectively, because the Agency received a notice of intent to submit adverse comments. EPA intends to publish proposed SNURs for these chemical substances under separate notice and comment procedures.

For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D, and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for the chemical substances that are being removed was established at EPA–HQ–OPPT–2013–0399. That record includes information considered by the Agency in developing this rule and the notice of intent to submit adverse comments.

#### III. Statutory and Executive Order Reviews

This final rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Agency has determined that this removal will not have any adverse impacts, economic or otherwise. The statutory and executive order review requirements applicable to the direct final rule were discussed in the **Federal Register** of August 7, 2013 (78 FR 48051). Those review requirements do not apply to this action because it is a removal and does not contain any new or amended requirements.

#### IV. Congressional Review Act (CRA)

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

#### List of Subjects

*40 CFR Part 9*

Environmental protection, Reporting and recordkeeping requirements.

*40 CFR Part 721*

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 28, 2013.

**Maria J. Doa,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR parts 9 and 721 are amended as follows:

## PART 9—[AMENDED]

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

**Authority:** 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318,