River Datum 0.0 while in the closed-to-navigation position, and provides 125 feet of horizontal clearance with half the span open. This bridge operates in accordance with 33 CFR 117.897. This deviation allows the double bascule span of the Broadway Bridge across the Willamette River, mile 11.7, to operate the bridge in single leaf mode to marine traffic. The deviation period will be from 1 a.m. on January 27, 2018 to 11:59 p.m. on February 23, 2018. The bridge shall operate in accordance with 33 CFR 117.897 at all other times.

Waterway usage on this part of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. One particular shipping company regularly requests a full bridge span opening in order to transit the river. In anticipation of this deviation, the shipping company has agreed to give a 7 day notice and a 24 hour notice to the bridge owner for a request of a full bridge span opening. If this procedure is followed, the bridge owner has agreed to comply with these requests.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at anytime. The bridge will be able to open for emergencies, and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transit the river. In anticipation of this deviation, the shipping company has agreed to give a 7 day notice and a 24 hour notice to the bridge owner for a request of a full bridge span opening. If this procedure is followed, the bridge owner has agreed to comply with these requests.

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that newspaper for its collections. Second, it would require applicants to register their newspapers through the Office’s electronic registration system in lieu of using paper applications. Third, it would amend the deposit requirements by requiring applicants to upload their newspapers in digital form through the Office’s electronic registration system. Applicants would no longer be required to submit microfilm containing a complete copy of each issue (although they could submit microfilm on a voluntary basis, in addition to uploading digital copies) if the microfilm is received by December 31, 2019, after which the microfilm option would be eliminated. Fourth, applicants would be required to submit their claim within three months after the date of publication for the earliest issue in the group, rather than the most recent issue. Fifth, the proposed rule confirmed that deposits submitted for the purpose of group registration would satisfy the mandatory deposit requirement under section 407. Sixth, it confirmed that the Library may provide limited access to any digital newspaper deposits that it receives from the Office under the group registration option, subject to certain restrictions. Seventh, the proposed rule codified the Office’s longstanding position regarding the scope of a registration for a group of newspaper issues, namely, that a group registration covers each issue in the group, as well as the articles, photographs, illustrations, or other contributions appearing within each issue—if they are fully owned by the copyright and if they were first published in those issues. Finally, the proposed rule would implement some technical amendments to address certain inconsistencies in the current regulation.

In response to the NPRM, the Office received comments from the News Media Alliance (“NMA”), the Copyright Alliance, and three individuals. The NMA “strongly supports the Copyright Office’s proposal to broaden the eligibility and formatting requirements for group registration of newspaper publisher’s rights to permit the submission of deposits in digital form rather than on microfilm.” NMA Comment at 3. The Copyright Alliance endorsed NMA’s comments and “joins in applauding the Copyright Office for its proposal permitting broader group registration for newspapers and accepting deposits in PDF format rather than microfilm.” Copyright Alliance Comment at 1. Of the individuals submitting comments, one expressed support for the proposed rule, one provided non-substantive comments, and one expressed concern about charging a filing fee.3

Having reviewed and carefully considered the comments, the Office now issues a final rule that is almost substantively identical to the proposed rule.4 The NPRM stated that the Office will allow applicants to submit microfilm copies in addition to uploading digital copies (if the microfilm is received by December 31, 2019) in case publishers need time to develop quality assurance testing to ensure complete digital submissions. For avoidance of doubt, the final rule clarifies that microfilm copies may be used to cure deficiencies in the digital files at the Register’s discretion. The final rule also clarifies that the microfilm copies must be submitted at the same time as the application, but the effective date of registration for this group option will be the date on which the Office receives an acceptable application, the digital files, and the proper filing fee.

The NMA asked the Office to clarify when the final rule will go into effect. As stated above, the final rule takes effect on March 1, 2018. Under the final rule, applicants will be required to submit their claims within three months after the date of publication for the earliest issue in the group. Thus, the final rule may be used to register newspaper issues published on or after December 1, 2017, provided that the claim is received in a timely manner.5 Because applicants will be required to include a full month of issues in each claim, and because they will be required to submit their claims within three months after the publication of the earliest issue in the group (rather than the most recent issue), it makes sense for the final rule to go into effect on the first day of March 2018.

The NMA also asked the Office to provide more information on what publishers will be expected to do when the final rule goes into effect. The Office is developing several new resources in response to this request. The Office will prepare a video tutorial explaining how to complete the application for the group registration option for newspapers, as well as provide the “help text” within the application itself to reflect the new registration requirements. In addition, the Office will update its various circulars discussing the Office’s practices and procedures for this group registration option, and the Office intends to make similar changes to the sections of the Compendium of U.S. Copyright Office Practice, Third Edition that discuss this option.

List of Subjects

37 CFR Part 201
Copyright, General provisions.
37 CFR Part 202
Copyright, Preregistration and registration of claims to copyright.

Final Regulations
For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:
■ 2. In § 201.1, add a sentence at the end of paragraph (c)(6) to read as follows:
§ 201.1 Communication with the Copyright Office.
* * * * * * * * * * (c) * * * * * * * * * * (6) * * * * Newspaper publishers that submit microfilm under § 202.4(e) of this chapter should mail their

1 The NMA is a nonprofit organization that represents the interests of more than 2,000 newspapers in the United States and around the world.
2 All of the comments submitted in response to the NPRM can be found on the Copyright Office’s website at https://www.copyright.gov/rulemaking/group-newspapers/.
3 The Office notes that the Copyright Act provides that “[f]ees shall be paid to the Register of Copyrights” when “filing each application . . . for registration of a copyright claims.” 17 U.S.C. 706(a), (a)(1) (emphasis added). The same individual also stated that the regulatory definition of “newspaper” should be amended to include “electronic” publications, because they “have an important presence in our society.” M. Ibarra Comment at 2.
4 As noted in the NPRM, the final rule may be used to register a newspaper that is distributed in an electronic format, such as a PDF version of a physical publication. To do so, the publisher would have to demonstrate that each issue contains a fixed selection of content, each issue is distributed as a collective work, and the content of each issue does not change once it has been distributed to the public. 82 FR at 51373. To the extent the commenter is referring to newspaper websites, the Office reiterates that a website would not be considered a “newspaper” for purposes of this group registration option, for the reasons stated from the NPRM. See id.
5 A few technical changes have been made to account for recent amendments resulting from other rulemakings. See, e.g., 82 FR 29410 (Nov. 13, 2017).

4145 Federal Register / Vol. 83, No. 20 / Tuesday, January 30, 2018 / Rules and Regulations
§ 202.4 Group registration.

(a) Definitions. (1) For purposes of this section, unless otherwise specified, the terms used have the meanings set forth in §§ 202.3, 202.13, and 202.20.

(2) For purposes of this section, the term Library means the Library of Congress.

(3) For purposes of this section, a periodical is a collective work that is issued or intended to be issued on an established schedule in successive issues that are intended to be continued indefinitely. In most cases, each issue will bear the same title, as well as numerical or chronological designations.

(b) Definitions. (1) For purposes of this section, unless otherwise specified, the terms used have the meanings set forth in §§ 202.3, 202.13, and 202.20.

(2) For purposes of this section, the term Library means the Library of Congress.

(3) For purposes of this section, a periodical is a collective work that is issued or intended to be issued on an established schedule in successive issues that are intended to be continued indefinitely. In most cases, each issue will bear the same title, as well as numerical or chronological designations.

(4) Time period covered. All the issues in the group must be published under the same continuing title, and they must be published within the same calendar month and bear issue dates within that month. The applicant must identify the earliest and latest date that the issues were published.

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

(6) Deposit. (i) The applicant must submit one complete copy of the final edition of each issue published in the calendar month designated in the application. Each submission may also include earlier editions of the same newspaper issue, provided that they were published on the same date as the final edition. Each submission may also include local editions of the newspaper issue that were published within the same metropolitan area, but may not include national or regional editions that were distributed outside that metropolitan area.

(ii) The issues must be submitted in a digital format and each issue must be contained in a separate electronic file. The applicant must use the filing name convention and submit digital files in accordance with instructions specified on the Copyright Office’s website. The files must be submitted in Portable Document Format (PDF), they must be assembled in an orderly form, and they must be uploaded to the electronic registration system as individual electronic files (i.e., not .zip files). The files must be viewable and searchable, contain embedded fonts, and be free from any access restrictions (such as those implemented through Digital Rights Management (DRM)). The file size for each uploaded file must not exceed 500 megabytes, but files may be compressed to comply with this requirement.

(b) Until December 31, 2019, the applicant may also submit the complete issues on positive 35mm silver halide microfilm at the same time as the application, in addition to providing electronic copies of the newspaper issues pursuant to paragraph (e)(6)(ii)(A) of this section. The issues should be arranged on the microfilm in chronological order, and should be sent to: Library of Congress, U.S. Copyright Office, Attn: 407 Deposits, 101 Independence Avenue SE, Washington, DC 20559. Should the applicant submit microfilm copies in addition to electronic files under paragraph (e)(6)(ii)(A) of this section, the effective date of registration for a group registration under paragraph (e) of this section will be the date on which the Office received an acceptable application, the electronic files submitted under paragraph (e)(6)(ii)(A), and the proper filing fee. If the electronic files submitted under paragraph (e)(6)(ii)(A) are deficient and the applicant also submits microfilm copies, the Register shall have discretion in determining whether the microfilm copies may be used to cure deficiencies in the electronic files (e.g., an electronic file is missing some pages from one newspaper issue, but the microfilm contains a complete version of each issue in the group). In cases where the Register determines that microfilm copies can be used to cure deficiencies in the electronic files submitted under paragraph (e)(6)(ii)(A), the effective date of registration for a group registration under paragraph (e) of this section will be the date on which the Office received an acceptable application, the electronic files submitted under paragraph (e)(6)(ii)(A), and the proper filing fee.

(7) The application, the filing fee, and files specified in paragraph (e)(6)(ii)(A) of this section must be received by the Library of Congress within three months.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 424

[CMS–6059–N8]

Medicare, Medicaid, and Children’s Health Insurance Programs: Announcement of the Extension of Temporary Moratoria on Enrollment of Part B Non-Emergency Ground Ambulance Suppliers and Home Health Agencies in Designated Geographic Locations

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Extension of temporary moratoria.

SUMMARY: This document announces the extension of statewide temporary moratoria on the enrollment of new Medicare Part B non-emergency ground ambulance suppliers and providers and home health agencies, subunits, and branch locations in Florida, Illinois, Michigan, Texas, Pennsylvania, and New Jersey, as applicable, to prevent and combat fraud, waste, and abuse. This extension also applies to the enrollment of new non-emergency ground ambulance providers and home health agencies, subunits, and branch locations in Medicaid and the Children’s Health Insurance Program in those states. For purposes of these moratoria, providers that were participating as network providers in one or more Medicaid managed care organizations prior to January 1, 2018 will not be considered “newly enrolling” when they are required to enroll with the State Medicaid agency pursuant to a new statutory requirement, and thus will not be subject to the moratoria.


FOR FURTHER INFORMATION CONTACT: Jung Kim, (410) 786–9370.

News media representatives must contact CMS’ Public Affairs Office at (202) 690–6145 or email them at press@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. CMS’ Implementation of Temporary Enrollment Moratoria

The Social Security Act (the Act) provides the Secretary with tools and resources to combat fraud, waste, and abuse in Medicare, Medicaid, and the Children’s Health Insurance Program (CHIP). In particular, section 1866[j](7) of the Act provides the Secretary with authority to impose a temporary moratorium on the enrollment of new Medicare, Medicaid, or CHIP providers and suppliers, including categories of providers and suppliers, if the Secretary determines that a moratorium is necessary to prevent or combat fraud, waste, or abuse under these programs. Regarding Medicaid, section 1902(kk)(4) of the Act requires States to comply with any moratorium imposed by the Secretary unless the State determines that the imposition of such moratorium would adversely impact Medicaid beneficiaries’ access to care. In addition, section 2107[e][1][F] of the Act provides that the Medicaid provision in section 1902(kk) of the Act is also applicable to CHIP.

In the February 2, 2011 Federal Register (76 FR 5862), CMS published a final rule with comment period titled, “Medicare, Medicaid, and Children’s Health Insurance Programs; Additional Screening Requirements, Application Fees, Temporary Enrollment Moratoria, Payment Suspensions and Compliance Plans for Providers and Suppliers,” which implemented section 1866[j](7) of the Act by establishing new regulations at 42 CFR 424.570. Under § 424.570(a)(2)(i) and (iv), CMS, or CMS in consultation with the Department of Health and Human Services’ Office of Inspector General (HHS OIG) or the Department of Justice (DOJ), or both, may impose a temporary moratorium on newly enrolling Medicare providers and suppliers if CMS determines that there is a significant potential for fraud, waste, or abuse with respect to a particular provider or supplier type, or particular geographic locations, or both. At § 424.570(a)(1)(iii), CMS stated that it would announce any temporary moratorium in a Federal Register document that includes the rationale for the imposition of such moratorium. This document fulfills that requirement. In accordance with section 1866[j](7)[B] of the Act, there is no judicial review under sections 1869 and