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Docket: 16–CRB–0002–PBR (2018– 2022)
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Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Library of Congress
Washington, DC

In re **DETERMINATION OF ROYALTY RATES AND TERMS FOR PERFORMANCE OR DISPLAY OF NONDRAMATIC MUSICAL WORKS AND PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS BY PUBLIC BROADCASTING ENTITIES (PB III)**	**Docket No. 16-CRB-0002-PBR (2018-2022)**

JOINT SUBMISSION OF THE AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS, BROADCAST MUSIC, INC., THE HARRY FOX AGENCY LLC, THE NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY BUSINESS OFFICERS, THE NATIONAL MUSIC PUBLISHERS' ASSOCIATION, THE NATIONAL RELIGIOUS BROADCASTERS NONCOMMERCIAL MUSIC LICENSE COMMITTEE & SESAC, INC.

The American Society of Composers, Authors & Publishers ("ASCAP"), Broadcast Music, Inc. ("BMI"), The Harry Fox Agency LLC ("HFA"), the National Association of College and University Business Officers ("NACUBO"), the National Music Publishers' Association ("NMPA"), the National Religious Broadcasters Noncommercial Music License Committee ("NRBNMLC") and SESAC, Inc. ("SESAC") (each a "Party" to this proceeding and, collectively, the "Parties") hereby submit draft regulations to establish rates and terms pursuant to 17 U.S.C. § 118 for the payment of compulsory royalties by certain noncommercial broadcasting entities for the performance of copyrighted works for the years 2018 through 2022. National Public Radio ("NPR") and Public Broadcasting Systems ("PBS") have not joined this submission because they have reached confidential settlement agreements with ASCAP, BMI, SESAC, and HFA.

The draft regulations, attached as Exhibit A hereto, integrate the proposals previously submitted separately by the various Parties into a single document and include some provisions that the Parties propose to carry forward unchanged. Attached as Exhibit B is a comparison document showing the revisions requested to the current regulations. Section 381.4, portions of section 381.7, and section 381.8 of current Title 37 have not been included because those provisions relate uniquely to PBS and NPR and/or noncommercial television broadcasting, an activity as to which the NRBNMLC and NACUBO do not represent noncommercial stations. HFA and NMPA are separately negotiating with NPR and PBS regarding those provisions and expect to file a separate proposal.

Respectfully submitted,

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Dated: September 1, 2017

CERTIFICATE OF SERVICE

I, Janet Fries, hereby certify that on this 1st day of September, 2017, a copy of the foregoing "Joint Submission of The American Society Of Composers, Authors & Publishers, Broadcast Music, Inc., The Harry Fox Agency LLC, The National Association Of College And University Business Officers, The National Music Publishers' Association, The National Religious Broadcasters Noncommercial Music License Committee & SESAC, Inc." was served through the eCRB system and by overnight delivery on the parties listed below.

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EXHIBIT A

§ 381.1 General.

This part establishes terms and rates of royalty payments for certain activities using published nondramatic musical works and published pictorial, graphic and sculptural works during a period beginning on January 1, 2018, and ending on December 31, 2022. Upon compliance with 17 U.S.C. 118, and the terms and rates of this part, a public broadcasting entity may engage in the activities with respect to such works set forth in 17 U.S.C. 118(c).

§ 381.2 Definition of public broadcasting entity.

As used in this part, the term *public broadcasting entity* means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in 17 U.S.C. 118(c).

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by noncommercial radio stations which are licensed to accredited colleges, accredited universities, or other accredited nonprofit educational institutions and which are not affiliated with National Public Radio. For purposes of this section, accreditation of institutions providing post-secondary education shall be determined by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education; and accreditation of institutions providing elementary or secondary education shall be as recognized by the applicable state licensing authority.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and colleges, universities, and other nonprofit educational institutions concerning the performance of copyrighted musical compositions, including performances by noncommercial radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, the royalty rates shall be as follows:

(i)

	Number of full-time students	2018	2019	2020	2021	2022
Level 1	<1,000	$352	$359	$366	$373	$380
Level 2	1,000-4,999	407	415	423	431	440
Level 3	5,000-9,999	557	568	579	591	603
Level 4	10,000-19,999	722	736	751	766	781
Level 5	20,000 +	908	926	945	964	983

(ii) Level 1 rates as set forth in paragraph (c)(1)(i) of this section, shall also apply to College Radio Stations with an authorized effective radiated power (ERP), as that term is defined in 47 CFR 73.310(a), of 100 Watts or less, as specified on its current FCC license, regardless of the size of the student population.

(2) For all such compositions in the repertory of BMI, the royalty rates shall be as follows:

(i)

	Number of full-time students	2018	2019	2020	2021	2022
Level 1	<1,000	$352	$359	$366	$373	$380
Level 2	1,000-4,999	407	415	423	431	440
Level 3	5,000-9,999	557	568	579	591	603
Level 4	10,000-19,999	722	736	751	766	781
Level 5	20,000 +	908	926	945	964	983

(ii) Level 1 rates, as set forth in paragraph (c)(2)(i) of this section, shall also apply to College Radio Stations with an authorized effective radiated power (ERP), as that term is defined in 47 CFR 73.310(a), of 100 Watts or less, as specified on its current FCC license, regardless of the size of the student population.

(3) For all such compositions in the repertory of SESAC, the royalty rates shall be as follows:

(i) 2018: The 2017 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(ii) 2019: The 2018 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(iii) 2020: The 2019 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(iv) 2021: The 2020 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(v) 2022: The 2021 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(vi) Such cost of living adjustment to be made in accordance with the greater of

(A) The change, if any, in the Consumer Price Index (all consumers, all items) published by the U.S. Department of Labor, Bureau of Labor Statistics during the twelve (12) month period from the most recent Index, published before December 1 of the year immediately prior to the applicable year, or

(B) One and one-half percent (1.5%).

(4) For the performance of any other such compositions: $1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI and SESAC not later than January 31 of each year. Each annual payment to ASCAP, BMI and SESAC shall be accompanied by a signed declaration stating the number of full-time students enrolled in the educational entity operating the station and/or the effective

radiated power (ERP) as specified in its current FCC license. An exact copy of such declaration shall be furnished to each of ASCAP, BMI and SESAC.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI and SESAC, upon request, a music-use report during one week of each calendar year. ASCAP, BMI and SESAC shall not in any one calendar year request more than 10 stations to furnish such reports.

§ 381.6 Performance of musical compositions by other public broadcasting entities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by radio stations not licensed to colleges, universities, or other nonprofit educational institutions and not affiliated with NPR. In the event that a station owned by a public broadcasting entity broadcasts programming by means of an in-band, on-channel ("IBOC") digital radio signal and such programming is different than the station's analog broadcast programming, then any such programming shall be deemed to be provided by a separate station requiring a separate royalty payment.

(b) *Definitions.* As used in paragraphs (d) and (e) of this section, the following terms and their variant forms mean the following:

(1) *Feature Music* shall mean any performance of a musical work, whether live or recorded, that is the principal focus of audience attention. Feature Music does not include bridge, background, or underscore music, themes or signatures, interstitial music between programs such as in public service announcements or program sponsorship identifications, brief musical transitions in and out of program segments (not to exceed 60 seconds in duration), incidental performances of music during broadcasts of public, religious, or sports events, or brief performances during news, talk, religious, and sports programming of no more than 30 seconds in duration.

(2) *Population Count.* The combination of:

(i) The number of persons estimated to reside within a station's Predicted 60 dBu Contour, based on the most recent available census data; and

(ii) The nonduplicative number of persons estimated to reside in the Predicted 60 dBu Contour of any Translator or Booster Station that extends a public broadcasting entity's signal beyond the contours of a station's Predicted 60 dBu Contour.

(iii) In determining Population Count, a station or a Translator or Booster Station may use and report the total population data, from a research company generally recognized in the broadcasting industry, for the radio market within which the station's community license is located.

(3) *Predicted 60 dBu Contour* shall be calculated as set forth in 47 CFR 73.313.

(4) *Talk Format Station* shall mean a noncommercial radio station:

(i) Whose program content primarily consists of talk shows, news programs, sports, community affairs or religious sermons (or other non-music-oriented programming);

(ii) That performs Feature Music in less than 20% of its programming annually; and

(iii) That performs music-oriented programming for no more than four (4) programming hours during the hours from 6 a.m. to 10 p.m. each weekday, with no two (2) hours of such programming occurring consecutively, with the exception of up to five (5) weekdays during the year.

(5) *Weekday* shall mean the 24-hour period starting at 12 a.m. through 11:59 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays occurring between January 1 of a given year up to and including Thanksgiving day of that year.

(6) *Translator Station* and *Booster Station* shall have the same meanings as set forth in 47 CFR 74.1201.

(c) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and noncommercial radio stations within the scope of this section concerning the performance of copyrighted musical compositions, including performances by noncommercial radio stations, shall apply in lieu of the rates and terms of this section.

(d) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, the royalty rates shall be as follows:

(i) Music Fees (Stations with 20% or more programming containing Feature Music):

	Population Count	Calendar Years				
		2018	2019	2020	2021	2022
Level 1	0 – 249,999	$ 697	$ 711	$ 725	$ 739	$ 754
Level 2	250,000 - 499,999	$1,243	$1,268	$1,294	$1,319	$1,346
Level 3	500,000 - 999,999	$1,864	$1,901	$1,939	$1,978	$2,017
Level 4	1,000,000 – 1,499,999	$2,486	$2,535	$2,586	$2,638	$2,691
Level 5	1,500,000 – 1,999,999	$3,107	$3,169	$3,232	$3,297	$3,363
Level 6	2,000,000 – 2,499,999	$3,728	$3,803	$3,879	$3,956	$4.035
Level 7	2,500,000 – 2,999,999	$4,349	$4,436	$4,525	$4,615	$4,708
Level 8	3,000,000 and above	$6,214	$6,338	$6,465	$6,594	$6,726

(ii) Talk Format Station Fees (Stations with <20% Feature Music programming):

	Population Count	**Calendar Years**				
		2018	**2019**	**2020**	**2021**	**2022**
Level 1	0 – 249,999	$ 697	$ 711	$ 725	$ 739	$ 754
Level 2	250,000 - 499,999	$ 697	$ 711	$ 725	$ 739	$ 754
Level 3	500,000 - 999,999	$ 697	$ 711	$ 725	$ 739	$ 754
Level 4	1,000,000 – 1,499,999	$ 870	$ 887	$ 905	$ 923	$ 942
Level 5	1,500,000 – 1,999,999	$1,087	$1,109	$1,131	$1,154	$1,177
Level 6	2,000,000 – 2,499,999	$1,305	$1,331	$1,357	$1,384	$1,412
Level 7	2,500,000 – 2,999,999	$1,522	$1,552	$1,583	$1,615	$1,647
Level 8	3,000,000 and above	$2,175	$2,218	$2,262	$2,308	$2,354

(2) For all such compositions in the repertory of BMI, the royalty rates shall be as follows:

(i) Music Fees (Stations with 20% or more programming containing Feature Music):

	Population Count	Calendar Years				
		2018	2019	2020	2021	2022
Level 1	0 – 249,999	$ 697	$ 711	$ 725	$ 739	$ 754
Level 2	250,000 - 499,999	$1,243	$1,268	$1,294	$1,319	$1,346
Level 3	500,000 - 999,999	$1,864	$1,901	$1,939	$1,978	$2,017
Level 4	1,000,000 – 1,499,999	$2,486	$2,535	$2,586	$2,638	$2,691
Level 5	1,500,000 – 1,999,999	$3,107	$3,169	$3,232	$3,297	$3,363
Level 6	2,000,000 – 2,499,999	$3,728	$3,803	$3,879	$3,956	$4.035
Level 7	2,500,000 – 2,999,999	$4,349	$4,436	$4,525	$4,615	$4,708
Level 8	3,000,000 and above	$6,214	$6,338	$6,465	$6,594	$6,726

(ii) Talk Format Station Fees (Stations with < 20% Feature Music programming):

	Population Count	**Calendar Years**				
		2018	**2019**	**2020**	**2021**	**2022**
Level 1	0 – 249,999	$ 697	$ 711	$ 725	$ 739	$ 754
Level 2	250,000 - 499,999	$ 697	$ 711	$ 725	$ 739	$ 754
Level 3	500,000 - 999,999	$ 697	$ 711	$ 725	$ 739	$ 754
Level 4	1,000,000 – 1,499,999	$ 870	$ 887	$ 905	$ 923	$ 942
Level 5	1,500,000 – 1,999,999	$1,087	$1,109	$1,131	$1,154	$1,177
Level 6	2,000,000 – 2,499,999	$1,305	$1,331	$1,357	$1,384	$1,412
Level 7	2,500,000 – 2,999,999	$1,522	$1,552	$1,583	$1,615	$1,647
Level 8	3,000,000 and above	$2,175	$2,218	$2,262	$2,308	$2,354

(3) For all such compositions in the repertory of SESAC, the royalty rates shall be as follows:(i) Music fees for stations with > = 20% Feature Music programming:

	Population count	**2018**	**2019**	**2020**	**2021**	**2022**
Level 1	0-249,999	$152	$155	$158	$161	$164
Level 2	250,000-499,999	253	258	263	268	274
Level 3	500,000-999,999	380	388	396	403	411
Level 4	1,000,000-1,499,999	507	517	527	538	548

Level 5	1,500,000-1,999,999	634	647	660	673	686
Level 6	2,000,000-2,499,999	760	775	790	806	822
Level 7	2,500,000-2,999,999	887	905	923	941	960
Level 8	3,000,000 and above	1,268	1,293	1,318	1,344	1,371

(ii) Talk fees for stations with <20% Feature Music programming:

	Population count	**2018**	**2019**	**2020**	**2021**	**2022**
Level 1	0-249,999	$152	$155	$158	$161	$164
Level 2	250,000-499,999	152	155	158	161	164
Level 3	500,000-999,999	152	155	158	161	164
Level 4	1,000,000-1,499,999	177	181	185	188	192
Level 5	1,500,000-1,999,999	222	227	231	236	240
Level 6	2,000,000-2,499,999	266	271	277	282	288
Level 7	2,500,000-2,999,999	311	317	323	330	336
Level 8	3,000,000 and above	444	452	461	470	480

(4) For the performance of any other such compositions, in 2018 through 2022, $1.

(e) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI, and SESAC not later than January 31 of each year. Each annual payment shall

be accompanied by a signed declaration stating the Population Count of the public broadcasting entity and the source for such Population Count. An exact copy of such declaration shall be furnished to each of ASCAP, BMI, and SESAC. Upon prior written notice thereof from ASCAP, BMI, and SESAC, a public broadcasting entity shall make its books and records relating to its Population Count available for inspection. In the event that a public broadcasting entity wishes to be deemed a Talk Format Station, then such entity shall provide a signed declaration stating that Feature Music is performed in less than 20% of its annual programming and that it complies with the caps set forth in paragraph (b)(4) of this section. An exact copy of such declaration shall be furnished to each of ASCAP, BMI, and SESAC. Upon prior written notice thereof from ASCAP, BMI, or SESAC, a public broadcasting entity shall make its program schedule or other documentation supporting its eligibility as a Talk Format Station available for inspection.

(f) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI and SESAC, upon request, a music-use report during one week of each calendar year. ASCAP, BMI and SESAC each shall not in any one calendar year request more than 10 stations to furnish such reports.

§ 381.7 Recording rights, rates, and terms.

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works, other than compositions subject to voluntary license agreements, on and for the radio and television programs of public broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities. The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(c)(3).

(b) *Royalty rate.* (1)(i) For uses described in paragraph (a) of this section of a musical work in a PBS-distributed program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in that PBS-distributed program:

. . .

(ii) For such uses other than in a PBS-distributed television program, the royalty fee shall be calculated by multiplying the following per-composition rates by the number of different compositions in that program:

. . .

(iii) In the event the work is first recorded other than in a PBS-distributed program, and such program is subsequently distributed by PBS, an additional royalty payment shall be made equal to the difference between the rate specified in this section for other than a PBS-distributed program and the rate specified in this section for a PBS-distributed program.

(2) For uses licensed herein of a musical work in a NPR program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in any NPR program distributed by NPR. For purposes of this schedule “National Public Radio” programs include all programs produced in whole or in part by NPR, or by any NPR station or organization under contract with NPR.

. . .

(3) For purposes of this schedule, a “Concert Feature” shall be deemed to be the nondramatic presentation in a program of all or part of a symphony, concerto, or other serious work originally written for concert performance, or the nondramatic presentation in a program of portions of a serious work originally written for opera performance.

(4) For such uses other than in an NPR-produced radio program:

	2018-2022
(i) Feature	$.81
(ii) Feature (concert) (per half hour)	$1.69
(iii) Background	$.41

(5) The schedule of fees covers use for a period of three years following the first use. Succeeding use periods will require the following additional payment: Additional one-year period—25 percent of the initial three-year fee; second three-year period—50 percent of the initial three-year fee; each three-year fee thereafter—25 percent of the initial three-year fee; provided that a 100 percent additional payment prior to the expiration of the first three-year period will cover use during all subsequent use periods without limitation. Such succeeding uses which are subsequent to December 31, 2017, shall be subject to the royalty rates established in this schedule.

(c) *Payment of royalty rates.* The required royalty rates shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.(d) *Records of use*—(1) *Maintenance of cue sheets.* PBS and its stations, NPR, or other public broadcasting entities shall maintain and make available for examination pursuant to paragraph (e) of this section copies of their standard cue sheets or summaries of same listing the recording of the musical works of such copyright owners.(2) *Content of cue sheets or summaries.* Such cue sheets or summaries shall include:

(i) The title, composer and author to the extent such information is reasonably obtainable.

(ii) The type of use and manner of performance thereof in each case.

(iii) For Concert Feature music, the actual recorded time period on the program, plus all distribution and broadcast information available to the public broadcasting entity.

(e) *Filing of use reports with the Copyright Royalty Judges. Deposit of cue sheets or summaries.* PBS and its stations, NPR, or other television public broadcasting entity shall deposit with the Copyright Royalty Judges one electronic copy in Portable Document Format (PDF) on compact disk (an optical data storage medium such as a CD-ROM, CD-R or CD-RW) or floppy diskette of their standard music cue sheets or summaries of same listing the recording pursuant to

this schedule of the musical works of copyright owners. Such cue sheets or summaries shall be deposited not later than July 31 of each calendar year for recordings during the first six months of the calendar year and not later than January 31 of each calendar year for recordings during the second six months of the preceding calendar year. PBS and NPR shall maintain at their offices copies of all standard music cue sheets from which such music use reports are prepared. Such music cue sheets shall be furnished to the Copyright Royalty Judges upon their request and also shall be available during regular business hours at the offices of PBS or NPR for examination by a copyright owner who believes a musical composition of such owner has been recorded pursuant to this schedule.

§ 381.9 Unknown copyright owners.

If PBS and its stations, NPR and its stations, or other public broadcasting entity is not aware of the identity of, or unable to locate, a copyright owner who is entitled to receive a royalty payment under this part, they shall retain the required fee in a segregated trust account for a period of three years from the date of the required payment. No claim to such royalty fees shall be valid after the expiration of the three-year period. Public broadcasting entities may establish a joint trust fund for the purposes of this section. Public broadcasting entities shall make available to the Copyright Royalty Judges, upon request, information concerning fees deposited in trust funds.

§ 381.10 Cost of living adjustment.

(a) On or before December 1, 2018, the Copyright Royalty Judges shall publish in the Federal Register a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to December 1, 2017, to the most recent Index published prior to December 1, 2018. On or before each December 1 thereafter the Copyright Royalty Judges shall publish a notice of the change in the cost of living during the period from the most recent index published prior to the previous notice, to the most recent Index published prior to December 1, of that year.

(b) On the same date of the notices published pursuant to paragraph (a) of this section, the Copyright Royalty Judges shall publish in the Federal Register a revised schedule of the rates for § 381.5(c)(3), the rate to be charged for compositions in the repertory of SESAC, which shall adjust the royalty amounts established in a dollar amount according to the greater of

(1) The change, in the cost of living determined as provided in paragraph (a) of this section, or

(2) One-and-a-half percent (1.5%).

(3) Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule for the rates for § 381.5(c)(3) shall become effective thirty (30) days after publication in the Federal Register.

§ 381.11 Notice of restrictions on use of reproductions of transmission programs.

Any public broadcasting entity which, pursuant to 17 U.S.C. 118, supplies a reproduction of a transmission program to governmental bodies or nonprofit institutions shall include with each copy of the reproduction a warning notice stating in substance that the reproductions may be used for a period of not more than seven days from the specified date of transmission, that the

reproductions must be destroyed by the user before or at the end of such period, and that a failure to fully comply with these terms shall subject the body or institution to the remedies for infringement of copyright.

EXHIBIT B

§ 381.1 General.

This part establishes terms and rates of royalty payments for certain activities using published nondramatic musical works and published pictorial, graphic and sculptural works during a period beginning on January 1, ~~2013~~2018, and ending on December 31, ~~2017~~2022. Upon compliance with 17 U.S.C. 118, and the terms and rates of this part, a public broadcasting entity may engage in the activities with respect to such works set forth in 17 U.S.C. 118(c).

§ 381.2 Definition of public broadcasting entity.

As used in this part, the term *public broadcasting entity* means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in 17 U.S.C. 118(c).

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by noncommercial radio stations which are licensed to accredited colleges, accredited universities, or other accredited nonprofit educational institutions and which are not affiliated with National Public Radio. For purposes of this section, accreditation of institutions providing post-secondary education shall be determined by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education; and accreditation of institutions providing elementary or secondary education shall be as recognized by the applicable state licensing authority.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and colleges, universities, and other nonprofit educational institutions concerning the performance of copyrighted musical compositions, including performances by noncommercial radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, the royalty rates shall be as follows:

(i)

(Added)

	Number of full-time students	2018	2019	2020	2021	2022
Level 1	<1,000	$352	$359	$366	$373	$380
Level 2	1,000-4,999	407	415	423	431	440
Level 3	5,000-9,999	557	568	579	591	603
Level 4	10,000-19,999	722	736	751	766	781
Level 5	20,000 +	908	926	945	964	983

—	Number of full-time students	2013	2014	2015	2016	2017
Level 1	<1,000	$319	$325	$332	$339	$345
Level 2	1,000-4,999	369	376	384	392	399
Level 3	5,000-9,999	505	515	525	535	546
Level 4	10,000-19,999	655	668	681	695	708
Level 5	20,000 +	822	838	855	872	890

(ii) Level 1 rates as set forth in paragraph (c)(1)(i) of this section, shall also apply to College Radio Stations with an authorized effective radiated power (ERP), as that term is defined in 47 CFR 73.310(a), of 100 Watts or less, as specified on its current FCC license, regardless of the size of the student population.

(2) For all such compositions in the repertory of BMI, the royalty rates shall be as follows:

(i)

—	Number of full-time students	2013	2014	2015	2016	2017
Level 1	<1,000	$319	$325	$332	$339	$345
Level 2	1,000-4,999	369	376	384	392	399
Level 3	5,000-9,999	505	515	525	535	546
Level 4	10,000-19,999	655	668	681	695	708
Level 5	20,000 +	822	838	855	872	890

(Added)

	Number of full-time students	2018	2019	2020	2021	2022
Level 1	<1,000	$352	$359	$366	$373	$380
Level 2	1,000-4,999	407	415	423	431	440
Level 3	5,000-9,999	557	568	579	591	603
Level 4	10,000-19,999	722	736	751	766	781
Level 5	20,000 +	908	926	945	964	983

(ii) Level 1 rates, as set forth in paragraph (c)(2)(i) of this section, shall also apply to College Radio Stations with an authorized effective radiated power (ERP), as that term is defined in 47 CFR 73.310(a), of 100 Watts or less, as specified on its current FCC license, regardless of the size of the student population.

(3) For all such compositions in the repertory of SESAC, the royalty rates shall be as follows:

~~(i) 2013: $140.00 per station;~~

(i) 2018: The 2017 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(ii) ~~2014: $143 per~~2019: The 2018 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this s~~ta~~ection.

(iii) ~~2015: $146 per~~2020: The 2019 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this s~~ta~~ection.

(iv) ~~2016: $149 per~~2021: The 2020 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this s~~ta~~ection.

(v) ~~2017~~2022: The ~~2016~~2021 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(vi) Such cost of living adjustment to be made in accordance with the greater of

(A) The change, if any, in the Consumer Price Index (all consumers, all items) published by the U.S. Department of Labor, Bureau of Labor Statistics during the twelve (12) month period from the most recent Index, published before December 1 of the year immediately prior to the applicable year, or

(B) ~~Two~~One and one-half percent (~~2~~1.5%).

(4) For the performance of any other such compositions: $1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI and SESAC not later than January 31 of each year. Each annual payment to ASCAP, BMI and SESAC shall be accompanied by a signed declaration stating the number of full-time students enrolled in the educational entity operating the station and/or the effective radiated power (ERP) as specified in its current FCC license. An exact copy of such declaration shall be furnished to each of ASCAP, BMI and SESAC.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI and SESAC, upon request, a music-use report during one week of each calendar year. ASCAP, BMI and SESAC shall not in any one calendar year request more than 10 stations to furnish such reports.

§ 381.6 Performance of musical compositions by other public broadcasting entities.

(a) *Scope*. This section applies to the performance of copyrighted published nondramatic musical compositions by radio stations not licensed to colleges, universities, or other nonprofit educational institutions and ~~which are~~ not affiliated with NPR. In the event that a station owned by a public broadcasting entity broadcasts programming by means of an in-band, on-channel ("IBOC") digital radio signal and such programming is different than the station's analog broadcast programming, then any such programming shall be deemed to be provided by a separate station requiring a separate royalty payment.

(b) *Definitions.* As used in paragraphs (d) and (e) of this section, the following terms and their variant forms mean the following:

(1) *Feature Music* shall mean any performance of a musical work, whether live or recorded, that is the principal focus of audience attention. Feature Music does not include bridge, background, or underscore music, themes or signatures, interstitial music between programs such as in public service announcements or program sponsorship identifications, brief musical transitions in and out of program segments (not to exceed 60 seconds in duration), incidental performances of music during broadcasts of public, religious, or sports events, or brief performances during news, talk, religious, and sports programming of no more than 30 seconds in duration.

(2) *Population Count.* The combination of:

(i) The number of persons estimated to reside within a station's Predicted 60 dBu Contour, based on the most recent available census data; and

(ii) The nonduplicative number of persons estimated to reside in the Predicted 60 dBu Contour of any Translator or Booster Station that extends a public broadcasting entity's signal beyond the contours of a station's Predicted 60 dBu Contour.

(iii) In determining Population Count, a station or a Translator or Booster Station may use and report the total population data, from a research company generally recognized in the broadcasting industry, for the radio market within which the station~~'~~'s community license is located.

(3) *Predicted 60 dBu Contour* shall be calculated as set forth in 47 CFR 73.313.

(4) *Talk Format Station* shall mean a noncommercial radio station:

(i) Whose program content primarily consists of talk shows, news programs, sports, community affairs or religious sermons (or other non-music-oriented programming);

(ii) That performs Feature Music in less than 20% of its programming annually; and

(iii) That performs music-oriented programming for no more than four (4) programming hours during the hours from 6 a.m. to 10 p.m. each weekday, with no two (2) hours of such programming occurring consecutively, with the exception of up to five (5) weekdays during the year.

(5) *Weekday* shall mean the 24-hour period starting at 12 a.m. through 11:59 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays occurring between January 1 of a given year up to and including Thanksgiving day of that year.

(6) *Translator Station* and *Booster Station* shall have the same meanings as set forth in 47 CFR 74.1201.

(c) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and noncommercial radio stations within the scope of this section concerning the performance of

copyrighted musical compositions, including performances by noncommercial radio stations, shall apply in lieu of the rates and terms of this section.

(d) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, the royalty rates shall be as follows:

(i) Music Fees (Stations with 20% or more programming containing Feature Music):

	Population ~~count~~ Count	~~2013~~Calendar Years	~~2014~~	~~2015~~	~~2016~~	~~2017~~
		2018	2019	2020	2021	2022
Level 1	0 – 249,999	$~~631~~ 697	$~~644~~ 711	$~~657~~ 725	$~~670~~ 739	$~~683~~ 754
Level 2	~~250,000-~~250,000 - 499,999	~~1,126~~$1,243	~~1,149~~$1,268	~~1,171~~$1,294	~~1,195~~$1,319	~~1,219~~$1,346
Level 3	~~500,000-~~500,000 - 999,999	~~1,688~~$1,864	~~1,722~~$1,901	~~1,756~~$1,939	~~1,791~~$1,978	~~1,827~~$2,017
Level 4	~~1,000,000-~~1,000,000 – 1,499,999	~~2,251~~$2,486	~~2,296~~$2,535	~~2,342~~$2,586	~~2,389~~$2,638	~~2,437~~$2,691
Level 5	~~1,500,000-~~1,500,000 – 1,999,999	~~2,814~~$3,107	~~2,870~~$3,169	~~2,928~~$3,232	~~2,986~~$3,297	~~3,046~~$3,363
Level 6	~~2,000,000-~~2,000,000 – 2,499,999	~~3,377~~$3,728	~~3,445~~$3,803	~~3,513~~$3,879	~~3,584~~$3,956	~~3,655~~$4.035
Level 7	~~2,500,000-~~2,500,000 – 2,999,999	~~3,939~~$4,349	~~4,018~~$4,436	~~4,098~~$4,525	~~4,180~~$4,615	~~4,264~~$4,708
Level 8	3,000,000 and above	~~5,628~~$6,214	~~5,741~~$6,338	~~5,855~~$6,465	~~5,972~~$6,594	~~6,092~~$6,726

(ii) Talk Format Station Fees (Stations with <20% Feature Music programming):

	Population ~~count~~ Count	**~~2013~~Calendar Years**	**~~2014~~**	**~~2015~~**	**~~2016~~**	**~~2017~~**
		2018	**2019**	**2020**	**2021**	**2022**
Level 1	0 – 249,999	$~~631~~ 697	$~~644~~ 711	$~~657~~ 725	$~~670~~ 739	$~~683~~ 754
Level 2	~~250,000-~~250,000 - 499,999	~~631~~$ 697	~~644~~$ 711	~~657~~$ 725	~~670~~$ 739	~~683~~$ 754
Level 3	~~500,000-~~500,000 - 999,999	~~631~~$ 697	~~644~~$ 711	~~657~~$ 725	~~670~~$ 739	~~683~~$ 754
Level 4	~~1,000,000-~~1,000,000 – 1,499,999	~~788~~$ 870	~~804~~$ 887	~~820~~$ 905	~~836~~$ 923	~~853~~$ 942
Level 5	~~1,500,000-~~1,500,000 –	~~985~~$1,08	~~1,005~~$1,	~~1,025~~$1,1	~~1,045~~$1,	~~1,066~~$1

	1,999,999	7	109	31	154	,177
Level 6	~~2,000,000~~-2,000,000 – 2,499,999	~~1,182~~$1,305	~~1,206~~$1,331	~~1,230~~$1,357	~~1,254~~$1,384	~~1,279~~$1,412
Level 7	~~2,500,000~~-2,500,000 – 2,999,999	~~1,379~~$1,522	~~1,406~~$1,552	~~1,434~~$1,583	~~1,463~~$1,615	~~1,492~~$1,647
Level 8	3,000,000 and above	~~1,970~~$2,175	~~2,009~~$2,218	~~2,049~~$2,262	~~2,090~~$2,308	~~2,132~~$2,354

(2) For all such compositions in the repertory of BMI, the royalty rates shall be as follows:

(i) Music Fees (Stations with 20% or more programming containing Feature Music):

	Population ~~count~~ Count	~~2013~~Calendar Years	~~2014~~	~~2015~~	~~2016~~	~~2017~~
		2018	2019	2020	2021	2022
Level 1	0 – 249,999	$~~631~~ 697	$~~644~~ 711	$~~657~~ 725	$~~670~~ 739	$~~683~~ 754
Level 2	~~250,000~~-250,000 - 499,999	~~1,126~~$1,243	~~1,149~~$1,268	~~1,171~~$1,294	~~1,195~~$1,319	~~1,219~~$1,346
Level 3	~~500,000~~-500,000 - 999,999	~~1,688~~$1,864	~~1,722~~$1,901	~~1,756~~$1,939	~~1,791~~$1,978	~~1,827~~$2,017
Level 4	~~1,000,000~~-1,000,000 – 1,499,999	~~2,251~~$2,486	~~2,296~~$2,535	~~2,342~~$2,586	~~2,389~~$2,638	~~2,437~~$2,691
Level 5	~~1,500,000~~-1,500,000 – 1,999,999	~~2,814~~$3,107	~~2,870~~$3,169	~~2,928~~$3,232	~~2,986~~$3,297	~~3,046~~$3,363
Level 6	~~2,000,000~~-2,000,000 – 2,499,999	~~3,377~~$3,728	~~3,445~~$3,803	~~3,513~~$3,879	~~3,584~~$3,956	~~3,655~~$4.035
Level 7	~~2,500,000~~-2,500,000 – 2,999,999	~~3,939~~$4,349	~~4,018~~$4,436	~~4,098~~$4,525	~~4,180~~$4,615	~~4,264~~$4,708
Level 8	3,000,000 and above	~~5,628~~$6,214	~~5,741~~$6,338	~~5,855~~$6,465	~~5,972~~$6,594	~~6,092~~$6,726

(ii) Talk Format Station Fees (Stations with < 20% Feature Music programming):

	Population ~~count~~ Count	**~~2013~~Calendar Years**	**~~2014~~**	**~~2015~~**	**~~2016~~**	**~~2017~~**
		2018	**2019**	**2020**	**2021**	**2022**

Level 1	0 – 249,999	$~~631~~ 697	$~~644~~ 711	$~~657~~ 725	$~~670~~ 739	$~~683~~ 754
Level 2	~~250,000-~~250,000 - 499,999	~~631~~$ 697	~~644~~$ 711	~~657~~$ 725	~~670~~$ 739	~~683~~$ 754
Level 3	~~500,000-~~500,000 - 999,999	~~631~~$ 697	~~644~~$ 711	~~657~~$ 725	~~670~~$ 739	~~683~~$ 754
Level 4	~~1,000,000-~~1,000,000 – 1,499,999	~~788~~$ 870	~~804~~$ 887	~~820~~$ 905	~~836~~$ 923	~~853~~$ 942
Level 5	~~1,500,000-~~1,500,000 – 1,999,999	~~985~~$1,087	~~1,005~~$1,109	~~1,025~~$1,131	~~1,045~~$1,154	~~1,066~~$1,177
Level 6	~~2,000,000-~~2,000,000 – 2,499,999	~~1,182~~$1,305	~~1,206~~$1,331	~~1,230~~$1,357	~~1,254~~$1,384	~~1,279~~$1,412
Level 7	~~2,500,000-~~2,500,000 – 2,999,999	~~1,379~~$1,522	~~1,406~~$1,552	~~1,434~~$1,583	~~1,463~~$1,615	~~1,492~~$1,647
Level 8	3,000,000 and above	~~1,970~~$2,175	~~2,009~~$2,218	~~2,049~~$2,262	~~2,090~~$2,308	~~2,132~~$2,354

(3) For all such compositions in the repertory of SESAC, the royalty rates shall be as follows:(i) Music fees for stations with > = 20% Feature Music programming:

	Population count	**~~2013~~2018**	**~~2014~~2019**	**~~2015~~2020**	**~~2016~~2021**	**~~2017~~2022**
Level 1	0-249,999	$~~138~~152	$~~140~~155	$~~143~~158	$~~146~~161	$~~149~~164
Level 2	250,000-499,999	~~230~~253	~~234~~258	~~239~~263	~~244~~268	~~248~~274
Level 3	500,000-999,999	~~345~~380	~~352~~388	~~359~~396	~~366~~403	~~373~~411
Level 4	1,000,000-1,499,999	~~459~~507	~~468~~517	~~478~~527	~~487~~538	~~497~~548
Level 5	1,500,000-1,999,999	~~574~~634	~~586~~647	~~597~~660	~~609~~673	~~622~~686
Level 6	2,000,000-2,499,999	~~689~~760	~~702~~775	~~716~~790	~~731~~806	~~745~~822
Level 7	2,500,000-2,999,999	~~804~~887	~~820~~905	~~836~~923	~~853~~941	~~870~~960

Level 8	3,000,000 and above	~~1,149~~1,268	~~1,171~~1,293	~~1,195~~1,318	~~1,219~~1,344	~~1,243~~1,371

(ii) Talk fees for stations with <20% Feature Music programming:

	Population count	**~~2013~~2018**	**~~2014~~2019**	**~~2015~~2020**	**~~2016~~2021**	**~~2017~~2022**
Level 1	0-249,999	$~~138~~152	$~~140~~155	$~~143~~158	$~~146~~161	$~~149~~164
Level 2	250,000-499,999	~~138~~152	~~140~~155	~~143~~158	~~146~~161	~~149~~164
Level 3	500,000-999,999	~~138~~152	~~140~~155	~~143~~158	~~146~~161	~~149~~164
Level 4	1,000,000-1,499,999	~~161~~177	~~164~~181	~~167~~185	~~170~~188	~~174~~192
Level 5	1,500,000-1,999,999	~~201~~222	~~205~~227	~~209~~231	~~213~~236	~~218~~240
Level 6	2,000,000-2,499,999	~~241~~266	~~246~~271	~~251~~277	~~256~~282	~~261~~288
Level 7	2,500,000-2,999,999	~~281~~311	~~287~~317	~~293~~323	~~299~~330	~~305~~336
Level 8	3,000,000 and above	~~402~~444	~~410~~452	~~418~~461	~~427~~470	~~435~~480

(4) For the performance of any other such compositions, in ~~2013~~2018 through ~~2017~~2022, $1.

(e) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI, and SESAC not later than January 31 of each year. Each annual payment shall be accompanied by a signed declaration stating the Population Count of the public broadcasting entity and the source for such Population Count. An exact copy of such declaration shall be furnished to each of ASCAP, BMI, and SESAC. Upon prior written notice thereof from ASCAP, BMI, and SESAC, a public broadcasting entity shall make its books and records relating to its Population Count available for inspection. In the event that a public broadcasting entity wishes to be deemed a Talk Format Station, then such entity shall provide a signed declaration stating that

Feature Music is performed in less than 20% of its annual programming and that it complies with the caps set forth in paragraph (b)(4) of this section. An exact copy of such declaration shall be furnished to each of ASCAP, BMI, and SESAC. Upon prior written notice thereof from ASCAP, BMI, or SESAC, a public broadcasting entity shall make its program schedule or other documentation supporting its eligibility as a Talk Format Station available for inspection.

(f) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI and SESAC, upon request, a music-use report during one week of each calendar year. ASCAP, BMI and SESAC each shall not in any one calendar year request more than 10 stations to furnish such reports.

§ 381.7 Recording rights, rates, and terms.

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works, other than compositions subject to voluntary license agreements, on and for the radio and television programs of public broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities. The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(c)(3).

(b) *Royalty rate.* (1)(i) For uses described in paragraph (a) of this section of a musical work in a PBS-distributed program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in that PBS-distributed program:

. . .

—	~~2013-2017~~
~~(A) Feature~~	~~$116.37~~
~~(B) Concert feature (per minute)~~	~~34.95~~
~~(C) Background~~	~~58.81~~
~~(D) Theme:~~	
~~*(1)* Single program or first series program~~	~~58.81~~

~~(2) Other series program~~	~~23.88~~

(ii) For such uses other than in a PBS-distributed television program, the royalty fee shall be calculated by multiplying the following per-composition rates by the number of different compositions in that program:

. . .

—	~~2013-2017~~
~~(A) Feature~~	~~$ 9.62~~
~~(B) Concert feature (per minute)~~	~~2.53~~
~~(C) Background~~	~~4.18~~
~~(D) Theme:~~	
~~(1) Single program or first series of program~~	~~4.18~~
~~(2) Other series program~~	~~1.66~~

(iii) In the event the work is first recorded other than in a PBS-distributed program, and such program is subsequently distributed by PBS, an additional royalty payment shall be made equal to the difference between the rate specified in this section for other than a PBS-distributed program and the rate specified in this section for a PBS-distributed program.

(2) For uses licensed herein of a musical work in a NPR program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in any NPR program distributed by NPR. For purposes of this schedule "National Public Radio" programs include all programs produced in whole or in part by NPR, or by any NPR station or organization under contract with NPR.

—	~~2013-2017~~

~~(i) Feature~~	~~$ 12.60~~
~~(ii) Concert feature (per minute)~~	~~18.49~~
~~(iii) Background~~	~~6.31~~
~~(iv) Theme:~~	
~~(A) Single program or first series program~~	~~6.31~~
~~(B) Other series program~~	~~2.52~~

. . .

(3) For purposes of this schedule, a "Concert Feature" shall be deemed to be the nondramatic presentation in a program of all or part of a symphony, concerto, or other serious work originally written for concert performance, or the nondramatic presentation in a program of portions of a serious work originally written for opera performance.

(4) For such uses other than in an NPR-produced radio program:

	~~2013~~2018-~~2017~~2022
(i) Feature	$.~~79~~81
(ii) Feature (concert) (per half hour)	~~1.65~~$1.69
(iii) Background	$.~~40~~41

(5) The schedule of fees covers use for a period of three years following the first use. Succeeding use periods will require the following additional payment: Additional one-year period—25 percent of the initial three-year fee; second three-year period—50 percent of the initial three-year fee; each three-year fee thereafter—25 percent of the initial three-year fee; provided that a 100 percent additional payment prior to the expiration of the first three-year period will cover use during all subsequent use periods without limitation. Such succeeding uses

which are subsequent to December 31, 2017, shall be subject to the royalty rates established in this schedule.

(c) *Payment of royalty rates.* The required royalty rates shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.(d) *Records of use*—(1) *Maintenance of cue sheets.* PBS and its stations, NPR, or other public broadcasting entities shall maintain and make available for examination pursuant to paragraph (e) of this section copies of their standard cue sheets or summaries of same listing the recording of the musical works of such copyright owners.(2) *Content of cue sheets or summaries.* Such cue sheets or summaries shall include:

(i) The title, composer and author to the extent such information is reasonably obtainable.

(ii) The type of use and manner of performance thereof in each case.

(iii) For Concert Feature music, the actual recorded time period on the program, plus all distribution and broadcast information available to the public broadcasting entity.

(e) *Filing of use reports with the Copyright Royalty Judges. Deposit of cue sheets or summaries.* PBS and its stations, NPR, or other television public broadcasting entity shall deposit with the Copyright Royalty Judges one electronic copy in Portable Document Format (PDF) on compact disk (an optical data storage medium such as a CD-ROM, CD-R or CD-RW) or floppy diskette of their standard music cue sheets or summaries of same listing the recording pursuant to this schedule of the musical works of copyright owners. Such cue sheets or summaries shall be deposited not later than July 31 of each calendar year for recordings during the first six months of the calendar year and not later than January 31 of each calendar year for recordings during the second six months of the preceding calendar year. PBS and NPR shall maintain at their offices copies of all standard music cue sheets from which such music use reports are prepared. Such music cue sheets shall be furnished to the Copyright Royalty Judges upon their request and also shall be available during regular business hours at the offices of PBS or NPR for examination by a copyright owner who believes a musical composition of such owner has been recorded pursuant to this schedule.

§ 381.9 Unknown copyright owners.

If PBS and its stations, NPR and its stations, or other public broadcasting entity is not aware of the identity of, or unable to locate, a copyright owner who is entitled to receive a royalty payment under this part, they shall retain the required fee in a segregated trust account for a period of three years from the date of the required payment. No claim to such royalty fees shall be valid after the expiration of the three-year period. Public broadcasting entities may establish a joint trust fund for the purposes of this section. Public broadcasting entities shall make available to the Copyright Royalty Judges, upon request, information concerning fees deposited in trust funds.

§ 381.10 Cost of living adjustment.

(a) On or before December 1, ~~2013~~2018, the Copyright Royalty Judges shall publish in the Federal Register a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to December 1, ~~2012~~2017, to the most recent Index published prior to December 1, ~~2013~~2018. On

or before each December 1 thereafter the Copyright Royalty Judges shall publish a notice of the change in the cost of living during the period from the most recent index published prior to the previous notice, to the most recent Index published prior to December 1, of that year.

(b) On the same date of the notices published pursuant to paragraph (a) of this section, the Copyright Royalty Judges shall publish in the Federal Register a revised schedule of the rates for § 381.5(c)(3), the rate to be charged for compositions in the repertory of SESAC, which shall adjust the royalty amounts established in a dollar amount according to the greater of

(1) The change, in the cost of living determined as provided in paragraph (a) of this section, or

(2) ~~Two~~One-and-a-half percent (~~2~~1.5%).

(3) Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule for the rates for § 381.5(c)(3) shall become effective thirty (30) days after publication in the Federal Register.

§ 381.11 Notice of restrictions on use of reproductions of transmission programs.

Any public broadcasting entity which, pursuant to 17 U.S.C. 118, supplies a reproduction of a transmission program to governmental bodies or nonprofit institutions shall include with each copy of the reproduction a warning notice stating in substance that the reproductions may be used for a period of not more than seven days from the specified date of transmission, that the reproductions must be destroyed by the user before or at the end of such period, and that a failure to fully comply with these terms shall subject the body or institution to the remedies for infringement of copyright.