paragraph (d)(4) of this section to be cut in one harvest operation where the responsible official determines that larger harvest openings are necessary to help achieve desired ecological conditions in the plan area. If so, standards for exceptions shall include the particular conditions under which the larger size is permitted and must set a maximum size permitted under those conditions.

(ii) Plan components may allow for size limits exceeding those established in paragraphs (d)(4) introductory text and (d)(4)(i) of this section on an individual timber sale basis after 60 days public notice and review by the regional forester.

(iii) The plan maximum size for openings to be cut in one harvest operation shall not apply to the size of openings harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm catastrophic conditions such as fire, insect and disease attack, or windstorm conditions. This size limit shall be increased if the particular conditions under which the particular conditions are met help achieve desired ecological conditions.

The adjustment in the royalty fee shall be based on a calculation of the percentage increase in the CPIU from the CPIU published in November 2020 (260.229), according to the formula: For subscription performances, (1 + (Cy – 260.229)/260.229) × $0.0026; for nonsubscription performances, (1 + (Cy – 260.229)/260.229) × $0.0021; for performances by a noncommercial webcaster in excess of 159,140 ATH per month, (1 + (Cy – 260.229)/260.229) × $0.0021; where Cy is the CPI-U published by the Secretary of Labor before December 1 of the preceding year. The adjusted rate shall be rounded to the nearest fourth decimal place. 37 CFR 380.10(c). The CPI-U published by the Secretary of Labor from the most recent index published before December 1, 2021, is 276.589. Applying the formula in 37 CFR 380.10(c) and rounding to the nearest fourth decimal place results in an increase in the rates for 2022.

The 2022 rate for eligible transmissions of sound recordings by commercial webcasters is $0.0028 per subscription performance and $0.0022 per nonsubscription performance. Application of the increase to rates for noncommercial webcasters results in a 2022 rate of $0.0022 per performance for all digital audio transmissions in excess of 159,140 ATH in a month on a channel or station.

As provided in 37 CFR 380.10(d), the royalty fee for making ephemeral recordings under section 112 of the Copyright Act to facilitate digital transmission of sound recordings under section 114 of the Copyright Act is included in the section 114 royalty fee and comprises 5% of the total fee.

List of Subjects in 37 CFR Part 380

Copyright; Sound recordings.

Final Regulations

In consideration of the foregoing, the Judges amend part 380 of title 37 of the Code of Federal Regulations as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

1. The authority citation for part 380 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

2. Section 380.10 is amended by revising paragraph (a) to read as follows:

§ 380.10 Royalty fees for the public performance of sound recordings and the making of ephemeral recordings.

(a) Royalty fees. For the year 2022, Licensees must pay royalty fees for all Eligible Transmissions of sound recordings at the following rates:

(1) Commercial webcasters: $0.0028 per Performance for subscription services and $0.0022 per Performance for nonsubscription services.

(2) Noncommercial webcasters: $1.00 per year for each channel or station and $0.0022 per Performance for all digital audio transmissions in excess of 159,140 ATH in a month on a channel or station.


Suzanne M. Barnett,
Chief Copyright Royalty Judge.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

Bifenthrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.