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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 381

[Docket No. 2011-2 CRB NCEB II]

Determination of Reasonable Rates and Terms for Noncommercial Broadcasting

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 use of certain works in connection with noncommercial broadcasting for the period commencing January 1, 2013, and ending on December 31, 2017.

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

Applicability Dates: The regulations apply to the license period January 1, 2013, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707-7658 or e-mail at crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Section 118 of the Copyright Act, title 17 of the United States Code, establishes a statutory license for the use of certain copyrighted works in connection with noncommercial television and radio broadcasting. Chapter 8 of the Copyright Act requires the Copyright Royalty Judges (“Judges”) to conduct proceedings every five years, beginning in 2006, to determine the rates and terms for the section 118 license. 17 U.S.C. 804(b)(6). Accordingly, the Judges conducted a proceeding to determine the rates and terms for the license period 2008-2012 and published final regulations on November 30, 2007. 72 FR 67646.

On January 5, 2011, the Judges published in the **Federal Register** a notice commencing the proceeding to determine the rates and terms for the 2013-2017 license period and requesting submission of petitions to participate from interested parties. 76 FR 591. Petitions to Participate were received from: The American Society of Authors, Composers and Publishers (“ASCAP”); SESAC, Inc.; Broadcast Music, Inc. (“BMI”); Educational Media Foundation (“EMF”); Music Reports, Inc. (“MRI”); National Public Radio, the Public Broadcasting Service, and noncommercial radio and television stations eligible to receive funding from the Corporation for Public Broadcasting jointly (“NPR/PBS/CPB”); National Religious Broadcasters Noncommercial Music License Committee (“NRBNMLC”); the Church Music Publishers’ Association; the National Music Publishers’ Association, Inc. and the Harry Fox Agency, jointly (“NMPA/HFA”); the Catholic Radio Association (“CRA”); and the American Council on Education (“ACE”). The Judges set the timetable for the three-month negotiation period, see 17 U.S.C. 803(b)(3), and directed the participants to submit their written direct statements no later than October 30, 2011. The Judges received written direct statements from CRA, BMI, ASCAP, and MRI,¹ as well as several notifications of settlement and proposed rates and terms for the Judges to adopt.

There are two ways that copyright owners and public broadcasting entities² may negotiate rates and terms under the section 118 statutory license. First, copyright owners may negotiate rates and terms with specific public broadcasting entities for the use of all

¹ Pursuant to 17 U.S.C. 803(b)(6)(C)(x), the Judges set the 60-day discovery period to run from November 30, 2011, through January 30, 2012. During the discovery period, MRI and CRA each withdrew from the proceeding on December 13, 2011, and January 27, 2012, respectively.

² A “public broadcasting entity” is defined as 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 paragraph (2) of subsection (c)” of section 118. 17 U.S.C. 118(f).

of the copyright owners' works covered by the license. Section 118(b)(2) provides that such license agreements "shall be given effect in lieu of any determination by the * * * Copyright Royalty Judges," provided that copies of the agreement are submitted to the Judges "within 30 days of execution." 17 U.S.C. 118(b)(2). The Judges received several agreements in this category; no further action is required with respect to these agreements.

Second, copyright owners and public broadcasting entities may negotiate rates and terms for categories of copyrighted works and uses that would be binding on all owners and entities and submit them to the Judges for approval. Section 801(b)(7)(A) provides that in such event:

- (i) The Copyright Royalty Judges shall provide those that would be bound by the terms, rates, or other determination set by any agreement in a proceeding to determine royalty rates an opportunity to comment on the agreement and shall provide to participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, or other determination set by the agreement to comment on the agreement and object to its adoption as a basis for statutory terms and rates; and
- (ii) the Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement, if any participant described in clause (i) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms and rates.

17 U.S.C. 801(b)(7)(A). The Judges received seven such proposals and published a notice requesting comment on the proposed rates and terms contained in the proposals, with certain modifications, submitted by the following participants: (1) SESAC and ACE; (2) BMI and ACE; (3) ASCAP and ACE; (4) NMPA/HFA and NRBNMLC; (5)

SESAC and NRBNMLC; (6) ASCAP and NRBNMLC; and (7) BMI and NRBNMLC.³

77 FR 24662 (April 25, 2012). Comments were due by May 25, 2012.

The Judges received comments from Common Frequency; OpenSky Radio Corp.; The Prometheus Radio Project; Wimberley Valley Radio; WKNC-FM; and PBS and NPR, jointly. Each comment, except the PBS/NPR comment,⁴ opposed certain of the proposed rates as not reasonable as applied to them.⁵ The Judges' ability to reject an agreement on the reasonableness of the rates and terms proposed therein is constrained by statute. Specifically, section 801(b)(7)(A)(ii) precludes the Judges from declining to adopt proposed rates and terms on the grounds of reasonableness unless a participant to the proceeding objects. None of the entities objecting to the proposed rates and terms submitted a timely filed petition to participate in this proceeding, and therefore none qualifies as a participant to the proceeding. Therefore, having received no objections to the reasonableness of the proposed rates and terms from a *participant to this proceeding*, the Copyright Royalty Judges are adopting final regulations, as published on April 25,

³ On October 31, 2011, EMF notified the Judges that as a member of NRBNMLC it was a party to each of the joint proposals involving NRBNMLC.

⁴ The PBS/NPR comment opposed the Judges' proposal to remove and reserve two sections—specifically § 381.4 and § 381.8, which govern performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities of 17 U.S.C. 118(c), and the use of published pictorial, graphic and sculptural works in PBS-distributed programs as well as in other PBS-distributed programs, respectively—and proposed rates and terms for these sections for the 2013-2017 license period. The Judges proposed removal of these sections because none of the initial joint proposals addressed them. In accordance with 17 U.S.C. 801(b)(7)(A), the Judges sought comment on this proposal in a subsequent notice. 77 FR 38022 (June 26, 2012). Comments were due July 26, 2012; none were received.

⁵ After the comment period, BMI and ASCAP submitted a letter to “clarify” portions of the joint proposals addressed by the comments. See Letter from BMI and ASCAP, dated June 6, 2012. OpenSky Radio responded to the BMI/ASCAP letter on July 17, 2012. For the reasons set forth above, the Judges need not address these submissions.

2012, and June 26, 2012, which set the rates and terms for the section 118 statutory license for the period 2013-2017.⁶

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

Final Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges amend Part 381 to Chapter III of title 37 of the Code of Federal Regulations as follows:

PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 381 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

§ 381.1 [Amended]

2. Section 381.1 is amended by removing “2008” and adding “2013” in its place and by removing “2012” and adding “2017” in its place.

3. Section 381.4 is amended as follows:

- a. By revising paragraphs (a)(1) through(8); and

- b. In paragraph (c), by removing “2008” and adding “2013” in its place, and by removing “2012” and adding “2017” in its place.

The revisions read as follows:

§ 381.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(c).

⁶ The regulations adopted today no longer require the Judges to publish a cost of living adjustment and a revised schedule of rates for the ASCAP and BMI repertories in § 381.5. See 37 CFR 381.5(c)(1)-(2). Such publication still is required for the SESAC repertory but not until on or before December 1, 2013. See 37 CFR 381.5(c)(3), 381.10(a).

* * * * *

(a) *Determination of royalty rate.*

(1) For performance of such work in a feature presentation of PBS:

2013-2017 \$232.18

(2) For performance of such a work as background or theme music in a PBS program:

2013-2017 \$ 58.51

(3) For performance of such a work in a feature presentation of a station of PBS:

2013-2017 \$ 19.84

(4) For performance of such a work as background or theme music in a program of a station of PBS:

2013-2017 \$ 4.18

(5) For the performance of such a work in a feature presentation of NPR:

2013-2017 \$ 23.53

(6) For the performance of such a work as background or theme music in an NPR program:

2013-2017 \$ 5.70

(7) For the performance of such a work in a feature presentation of a station of NPR:

2013-2017 \$ 1.66

(8) For the performance of such a work as background or theme music in a program of a station of NPR:

2013-2017 \$.59

4. Section 381.5 is amended by revising paragraphs (c) and (d) to read as follows:

§ 381.5 Performance of musical compositions by public broadcasting entities

licensed to colleges and universities.

* * * * *

(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	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

(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;

(ii) 2014: \$140 per station, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section;

(iii) 2015: The 2014 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section;

(iv) 2016: The 2015 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section;

(v) 2017: The 2016 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 percent (2%).

(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.

* * * * *

5. Section 381.6 is amended as follows:

- a. By removing paragraph (f).
- b. By redesignating paragraphs (b) through (e) as paragraphs (c) through (f), respectively;
- c. By adding a new paragraph (b);
- d. By revising newly redesignated paragraphs (d) and (e).
- e.

The additions and revisions to § 381.6 read as follows:

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

* * * * *

(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.

* * * * *

(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	2013	2014	2015	2016	2017
Level 1	0 – 249,999	\$631	\$644	\$657	\$670	\$683
Level 2	250,000 – 499,999	\$1,126	\$1,149	\$1,171	\$1,195	\$1,219
Level 3	500,000 – 999,999	\$1,688	\$1,722	\$1,756	\$1,791	\$1,827
Level 4	1,000,000 – 1,499,999	\$2,251	\$2,296	\$2,342	\$2,389	\$2,437
Level 5	1,500,000 – 1,999,999	\$2,814	\$2,870	\$2,928	\$2,986	\$3,046
Level 6	2,000,000 – 2,499,999	\$3,377	\$3,445	\$3,513	\$3,584	\$3,655
Level 7	2,500,000 – 2,999,999	\$3,939	\$4,018	\$4,098	\$4,180	\$4,264
Level 8	3,000,000 and above	\$5,628	\$5,741	\$5,855	\$5,972	\$6,092

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

	Population Count	2013	2014	2015	2016	2017
Level 1	0 – 249,999	\$631	\$644	\$657	\$670	\$683
Level 2	250,000 – 499,999	\$631	\$644	\$657	\$670	\$683
Level 3	500,000 – 999,999	\$631	\$644	\$657	\$670	\$683
Level 4	1,000,000 – 1,499,999	\$788	\$804	\$820	\$836	\$853
Level 5	1,500,000 – 1,999,999	\$985	\$1,005	\$1,025	\$1,045	\$1,066
Level 6	2,000,000 – 2,499,999	\$1,182	\$1,206	\$1,230	\$1,254	\$1,279
Level 7	2,500,000 – 2,999,999	\$1,379	\$1,406	\$1,434	\$1,463	\$1,492
Level 8	3,000,000 and above	\$1,970	\$2,009	\$2,049	\$2,090	\$2,132

(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	2013	2014	2015	2016	2017
Level 1	0 – 249,999	\$631	\$644	\$657	\$670	\$683
Level 2	250,000 – 499,999	\$1,126	\$1,149	\$1,171	\$1,195	\$1,219
Level 3	500,000 – 999,999	\$1,688	\$1,722	\$1,756	\$1,791	\$1,827
Level 4	1,000,000 – 1,499,999	\$2,251	\$2,296	\$2,342	\$2,389	\$2,437
Level 5	1,500,000 – 1,999,999	\$2,814	\$2,870	\$2,928	\$2,986	\$3,046
Level 6	2,000,000 – 2,499,999	\$3,377	\$3,445	\$3,513	\$3,584	\$3,655
Level 7	2,500,000 – 2,999,999	\$3,939	\$4,018	\$4,098	\$4,180	\$4,264
Level 8	3,000,000 and above	\$5,628	\$5,741	\$5,855	\$5,972	\$6,092

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

	Population Count	2013	2014	2015	2016	2017
Level 1	0 – 249,999	\$631	\$644	\$657	\$670	\$683
Level 2	250,000 – 499,999	\$631	\$644	\$657	\$670	\$683
Level 3	500,000 – 999,999	\$631	\$644	\$657	\$670	\$683
Level 4	1,000,000 – 1,499,999	\$788	\$804	\$820	\$836	\$853
Level 5	1,500,000 – 1,999,999	\$985	\$1,005	\$1,025	\$1,045	\$1,066
Level 6	2,000,000 – 2,499,999	\$1,182	\$1,206	\$1,230	\$1,254	\$1,279
Level 7	2,500,000 – 2,999,999	\$1,379	\$1,406	\$1,434	\$1,463	\$1,492
Level 8	3,000,000 and above	\$1,970	\$2,009	\$2,049	\$2,090	\$2,132

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

(i) Music fees for stations with $\geq 20\%$ Feature Music programming:

	Population Count	2013	2014	2015	2016	2017
Level 1	0 – 249,999	\$138	\$140	\$143	\$146	\$149
Level 2	250,000 – 499,999	\$230	\$234	\$239	\$244	\$248
Level 3	500,000 – 999,999	\$345	\$352	\$359	\$366	\$373
Level 4	1,000,000 – 1,499,999	\$459	\$468	\$478	\$487	\$497
Level 5	1,500,000 – 1,999,999	\$574	\$586	\$597	\$609	\$622
Level 6	2,000,000 – 2,499,999	\$689	\$702	\$716	\$731	\$745
Level 7	2,500,000 – 2,999,999	\$804	\$820	\$836	\$853	\$870
Level 8	3,000,000 and above	\$1,149	\$1,171	\$1,195	\$1,219	\$1,243

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

	Population Count	2013	2014	2015	2016	2017
Level 1	0 – 249,999	\$138	\$140	\$143	\$146	\$149
Level 2	250,000 – 499,999	\$138	\$140	\$143	\$146	\$149
Level 3	500,000 – 999,999	\$138	\$140	\$143	\$146	\$149
Level 4	1,000,000 – 1,499,999	\$161	\$164	\$167	\$170	\$174
Level 5	1,500,000 – 1,999,999	\$201	\$205	\$209	\$213	\$218
Level 6	2,000,000 – 2,499,999	\$241	\$246	\$251	\$256	\$261
Level 7	2,500,000 – 2,999,999	\$281	\$287	\$293	\$299	\$305
Level 8	3,000,000 and above	\$402	\$410	\$418	\$427	\$435

(4) For the performance of any other such compositions, in 2013 through 2017, \$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.

* * * * *

6. Section 381.7 is amended as follows:

- a. By revising paragraphs (b)(1)(i)(A) through(D) and (b)(1)(ii)(A) through(D);
- b. By revising paragraphs (b)(2)(i) through(iv);
- c. In paragraph (b)(4), by removing “2008-2012” and adding “2013-2017” in its place; and
- d. In paragraph (b)(5), by removing “2012” and adding “2017” in its place.

The revisions read as follows:

§ 381.7 Recording rights, rates and terms.

* * * * *

(b)* * *

(1)(i) * * *

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) * * *

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

* * * * *

(2) * * *

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

* * * * *

7. Section 381.8 is amended as follows:

- a. By revising paragraphs (b)(1)(i) through(ii); and
- b. In paragraph (f), by removing “2012” and adding “2017” in its place.

The revisions read as follows:

§ 381.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.

* * * * *

(b)***

(1)*** (i) For such uses in a PBS-distributed program:

	2013-2017
(A) For featured display of a work	\$70.75
(B) For background and montage display	\$34.50
(C) For use of a work for program identification or for thematic use	\$139.46
(D) For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of the schedule	\$45.82

(ii) For such uses in other than PBS-distributed programs:

2013-2017

(A) For featured display of a work	\$45.82
(B) For background and montage display	\$23.48
(C) For use of a work for program identification or for thematic use	\$93.65
(D) For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of the schedule	\$23.49

* * * * *

8. Section 381.10 is amended as follows:

a. In paragraph (a), by removing “2007” and adding “2013” in its place in each place it appears and by removing “2006” and adding “2012” in its place, and by removing “On each December 1” and adding “On or before each December 1” in its place;

b. By revising paragraph (b);

c. In paragraph (c), by adding “the” before “rates”, by removing “381.5” and adding “381.5(c)(3)” in its place, and by adding “(30)” after “thirty”.

The revisions read as follows:

§ 381.10 Cost of living adjustment.

* * * * *

(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 percent (2%).

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

* * * * *

Dated: November 21, 2012

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

[BILLING CODE: 1410-72-P]

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