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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 253

[Docket No. 2003-3 CARP NCBRA]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress announces a cost of living adjustment of 2% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio for the use of copyrighted published nondramatic musical compositions in the BMI, ASCAP and SESAC repertoires. The cost of living adjustment is based on the change in the Consumer Price Index from October, 2002 to October, 2003.

EFFECTIVE DATE: January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five-year intervals. 17 U.S.C. 118(c).

The most recent proceeding to consider the terms and rates for the section 118 license occurred in 2002. 67 FR 15414 (April 1, 2002). Final regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works for the license period beginning January 1, 2003, and ending December 31, 2007, were published in the **Federal Register** on December 17, 2002. 67 FR 77170 (December 17, 2002).

Pursuant to these regulations, on December 1 of each year the Librarian shall publish 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 the previous notice, to the most recent Index published prior to December 1, of that year. 37 CFR 253.10(a). The regulations also require that the Librarian publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertoires by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. 37 CFR 253.10(b). Accordingly, the Copyright Office of the Library of Congress is hereby announcing the change in the Consumer Price Index and performing the annual cost of living adjustment to the rates set out in § 253.5(c).

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 before December 1, 2002, to the most recent Index published before December 1, 2003, is 2% (2002's figure was 181.3; the figure for 2003 is 185.0, based on 1982-1984=100 as a reference base). Rounding off to the nearest dollar, the royalty rates for the use of musical compositions in the repertoires of ASCAP, BMI, and SESAC are \$254, \$254, and \$82, respectively.

List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

Final Regulation

■ For the reasons set forth in the preamble, part 253 of title 37 of the Code of Federal Regulations is amended as follows:

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 253 continues to read as follows:

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

■ 2. Section 253.5 is amended by revising paragraphs (c)(1) through (c)(3) as follows:

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

* * * * *
(c) * * *

(1) For all such compositions in the repertory of ASCAP, \$254 annually.

(2) For all such compositions in the repertory of BMI, \$254 annually.

(3) For all such compositions in the repertory of SESAC, \$82 annually.

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Dated: November 21, 2003.

Marybeth Peters,

Register of Copyrights.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NE-193-1193; FRL-7592-1]

Approval and Promulgation of Air Quality Implementation Plans; Nebraska Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is updating the materials submitted by Nebraska that are incorporated by reference (IBR) into the state implementation plan (SIP). The regulations affected by this update have been previously submitted by the state agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), Office of Air and Radiation Docket and Information Center, and the Regional Office.

EFFECTIVE DATE: This action is effective December 1, 2003.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101; Office of Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, NW (Mail Code 6102T), Washington, DC 20460, and Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Evelyn VanGoethem at (913) 551-7659, or by e-mail at vangoethem.evelyn@epa.gov.

SUPPLEMENTARY INFORMATION: The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time