

(d) *Terms of use.* The fees provided in this schedule for the performance of a musical work in a program shall cover performances of such work in such program for a period of three years following the first performance.

[57 FR 60954, Dec. 22, 1992. Redesignated and amended at 59 FR 23993, May 9, 1994; 63 FR 2144, Jan 14, 1998]

**§ 253.5 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 colleges, universities, or other nonprofit educational institutions and which are not affiliated with National Public Radio.

(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, \$244 annually.

(2) For all such compositions in the repertory of BMI, \$244 annually.

(3) For all such compositions in the repertory of SESAC, \$66 annually.

(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.

(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.

[57 FR 60954, Dec. 22, 1992, as amended at 58 FR 63294, Dec. 1, 1993; 60 FR 61655, Dec. 1, 1995; 61 FR 60613, Nov. 29, 1996; 63 FR 2145, Jan. 14, 1998; 63 FR 66042, Dec. 1, 1998; 64 FR 67188, Dec. 1, 1999; 65 FR 75167, Dec. 1, 2000; 66 FR 59699, Nov. 30, 2001]

**§ 253.6 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 National Public Radio.

(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 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.

(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, in 1998, \$375; in 1999, \$390; in 2000, \$405; in 2001, \$420; in 2002, \$440.

(2) For all such compositions in the repertory of BMI, in 1998, \$375; in 1999, \$390; in 2000, \$405; in 2001, \$420; in 2002, \$440.

(3) For all such compositions in the repertory of SESAC, in 1998, \$78; in 1999, \$82; in 2000, \$86; in 2001, \$89; in 2002, \$92.

(4) For the performance of any other such compositions, in 1998 through 2002, \$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.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI and

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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 5 stations to furnish such reports.

[57 FR 60954, Dec. 22, 1992. Redesignated at 59 FR 23993, May 9, 1994, and amended at 60 FR 8198, Feb. 13, 1995; 63 FR 2145, Jan. 14, 1998]

§ 253.7 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, or compositions represented by the Harry Fox Agency, Inc., SESAC, and/or the National Music Publishers Association and which are licensed on terms and conditions established by a duly empowered Copyright Arbitration Royalty Panel pursuant to the procedures set forth in this subchapter, 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(d)(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:

	1998-2002
Feature .....	\$106.04
Concert feature (per minute) .....	31.84
Background .....	53.59
Theme:	
Single program or first series program .....	53.59
Other series program .....	21.75

(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:

	1998-2002
Feature .....	\$8.76
Concert feature (per minute) .....	2.30
Background .....	3.81
Theme:	
Single program or first series program .....	3.81
Other series program .....	1.52

(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.

	1998-2002
Feature .....	\$11.48
Concert feature (per half hour) ...	16.85
Background .....	5.75
Theme:	
Single program or first series program .....	5.75
Other series program .....	2.29

(3) For the 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 a NPR-produced radio program:

	1998-2002
Feature .....	\$.74
Feature (concert)(per half hour)	1.54
Background .....	.37

(5) The schedule of fees covers broadcast use for a period of three years following the first broadcast. Succeeding