(f) Consultation. Before rendering a written report to a Copyright Owner or Performer, except where the auditor has a reasonable basis to suspect fraud and disclosure would, in the reasonable opinion of the auditor, prejudice the investigation of such suspected fraud, the auditor shall review the tentative written findings of the audit with the appropriate agent or employee of the Collective in order to remedy any factual errors and clarify any issues relating to the audit; Provided that the appropriate agent or employee of the Collective reasonably cooperates with the auditor to remedy promptly any factual errors or clarify any issues raised by the audit.

(g) Costs of the verification procedure. The Copyright Owner or Performer requesting the verification procedure shall pay the cost of the procedure, unless it is finally determined that there was an underpayment of 10% or more, in which case the Collective shall, in addition to paying the amount of any underpayment, bear the reasonable costs of the verification procedure.

§380.27 Unclaimed funds.

If the Collective is unable to identify or locate a Copyright Owner or Performer who is entitled to receive a royalty distribution under this subpart, the Collective shall retain the required payment in a segregated trust account for a period of 3 years from the date of distribution. No claim to such distribution shall be valid after the expiration of the 3-year period. After expiration of this period, the Collective may apply the unclaimed funds to offset any costs deductible under 17 U.S.C. 114(g)(3). The foregoing shall apply notwithstanding the common law or statutes of any State.

PART 381—USE OF CERTAIN COPY-RIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

Sec. 381.1 General.
381.2 Definition of public broadcasting entity.
381.3 [Reserved]
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).
381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.
381.6 Performance of musical compositions by other public broadcasting entities.
381.7 Recording rights, rates and terms.
381.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.
381.9 Unknown copyright owners.
381.10 Cost of living adjustment.
381.11 Notice of restrictions on use of reproductions of transmission programs.

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

SOURCE: 72 FR 67647, Nov. 30, 2007, unless otherwise noted.

§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, and ending on December 31, 2017. 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 non-commercial 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).


§381.3 [Reserved]

§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).

The following schedule of rates and terms shall apply to the performance by PBS, NPR and other public broadcasting entities engaged in activities set forth in 17 U.S.C. 118(c) of copyrighted published nondramatic musical compositions, except for public broadcasting entities covered by §§381.5 and 381.6, and except for compositions
which are the subject of voluntary license agreements.

(a) Determination of royalty rate.

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

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013–2017</td>
<td>$232.18</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013–2017</td>
<td>$58.51</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013–2017</td>
<td>$19.84</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013–2017</td>
<td>$4.18</td>
</tr>
</tbody>
</table>

(b) Payment of royalty rate. The required royalty rate 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.

(c) Records of use. PBS and NPR shall, upon the request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner a reasonable opportunity to examine their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs. Any local PBS and NPR station that shall be required by the provisions of any voluntary license agreement with ASCAP, BMI or SESAC covering the license period January 1, 2013, to December 31, 2017, to provide a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

(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 four years following the first performance.


§ 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