§ 382.3 Royalty fees for the digital performance of sound recordings and the making of ephemeral recordings by preexisting subscription services.

(a) Commencing January 1, 2013, and continuing through December 31, 2017, the monthly royalty fee to be paid by a Licensee for the public performance of sound recordings pursuant to 17 U.S.C. 114 and the making of any number of Ephemeral Recordings to facilitate such performances pursuant to 17 U.S.C. 112(e) shall be a percentage of monthly Gross Revenues resulting from residential services in the United States as follows: for 2013, 8%; and for 2014 through 2017, 8.5%.

(b) Each Licensee making digital performances of sound recordings pursuant to 17 U.S.C. 114 and Ephemeral Recordings pursuant to 17 U.S.C. 112(e) shall make an advance payment to the Collective of $100,000 per year, payable no later than January 20th of each year. The annual advance payment shall be nonrefundable, but it may be counted as an advance of the section royalty fees for the digital performance of sound recordings and the making of ephemeral recordings by preexisting subscription services.
§ 382.4 Terms for making payment of royalty fees and statements of account.

(a) Payment to the Collective. A Licensee shall make the royalty payments due under §382.3 to the Collective.

(b) Timing of payment. A Licensee shall make any payments due under §382.3 on a monthly basis on or before the 45th day after the end of each month for that month.

(c) Statements of Account. Licensees shall submit monthly statements of account on a form provided by the Collective. A statement of account shall contain the following information:

(1) Such information as is necessary to calculate the accompanying royalty payments;

(2) The name, address, business title, telephone number, facsimile (if any), electronic mail address and other contact information of the person to be contacted for information or questions concerning the content of the statement of account;

(3) The signature of a duly authorized officer or representative of the Licensee;

(4) The printed or typewritten name of the person signing the statement of account;

(5) The date of signature;

(6) The title or official position held in relation to the Licensee by the person signing the statement of account;

(7) A certification of the capacity of the person signing; and

(8) A statement to the following effect:

I, the undersigned officer or representative of the Licensee, have examined this statement of account and hereby state that it is true, accurate, and complete to my knowledge after reasonable due diligence.

(d) Distribution of royalties. (1) The Collective shall promptly distribute royalties received from Licensees to Copyright Owners and Performers, or their designated agents, that are entitled to such royalties. The Collective shall be responsible only for making distributions to those Copyright Owners, Performers, or their designated agents who provide the Collective with such information as is necessary to identify the correct recipient. The Collective shall distribute royalties on a basis that values all performances by a Licensee equally based upon the information provided under the reports of use requirements for Licensees contained in §370.3 of this chapter.

(2) If the Collective is unable to locate a Copyright Owner or Performer entitled to a distribution of royalties under paragraph (d)(1) of this section within 3 years from the date of payment by a Licensee, such royalties shall be handled in accordance with §382.8.

(e) Retention of records. Both Licensees and the Collective shall maintain books and records relating to the payment of the license fees in accordance with generally accepted accounting principles for a period of three years after the end of the period for which the payment is made. These records shall include, but are not limited to, the statements of account, records documenting an interested party’s share of the royalty fees, and the records pertaining to the administration of the collection process and the further distribution of the royalty fees to those