§ 383.3 Royalty fees for public performances of sound recordings and the making of ephemeral recordings.

(a) Royalty rates. Royalty rates for the public performance of sound recordings by eligible digital transmissions made over a Service pursuant to 17 U.S.C. 114, and for ephemeral recordings of sound recordings made pursuant to 17 U.S.C. 112(e) to facilitate such transmissions during the License Period, are as follows. Each Licensee will pay, with respect to content covered by the License that is provided via the Service of each such Licensee:

(1) For Stand-Alone Contracts, the greater of:
   (i) 15% of Revenue, or
   (ii) The following monthly minimum payment per Subscriber to the Service of such Licensee—
      (A) From inception through 2006: $0.0075
      (B) 2007: $0.0075
      (C) 2008: $0.0075
      (D) 2009: $0.0075
      (E) 2010: $0.0075
      (F) 2011: $0.0075
      (G) 2012: $0.0075
      (H) 2013: $0.0075
      (I) 2014: $0.0075
      (J) 2015: $0.0075

(2) For Bundled Contracts, the greater of:
   (i) 15% of Revenue allocated to reflect the objective value of the Licensee’s Service, or
   (ii) The following monthly minimum payment per Subscriber to the Service of such Licensee—
      (A) From inception through 2006: $0.0022
      (B) 2007: $0.0022
      (C) 2008: $0.0022
      (D) 2009: $0.0022
      (E) 2010: $0.0022
      (F) 2011: $0.0022
      (G) 2012: $0.0022
      (H) 2013: $0.0022
      (I) 2014: $0.0022
      (J) 2015: $0.0022

(b) Minimum fee. Each Licensee will pay an annual, non-refundable minimum fee of one hundred thousand dollars ($100,000), payable on January 31 of each calendar year in which the Service is provided pursuant to the section 112(e) and 114 statutory licenses, but payable pursuant to the applicable regulations for all years 2007 and earlier. Such fee shall be recoupable and credited against royalties due in the calendar year in which it is paid.

(c) Ephemeral recordings. The royalty payable under 17 U.S.C. 112(e) for the making of phonorecords used by the Licensee solely to facilitate transmissions during the License Period for which it pays royalties as and when provided in this part shall be included
within, and constitute 5% of, such royalty payments.


§ 384.2 Definitions.

For purposes of this part, the following definitions shall apply:


Collective is the collection and distribution organization that is designated by the Copyright Royalty Judges. For the License Period, the Collective is SoundExchange, Inc.

Copyright Owners are sound recording copyright owners who are entitled to royalty payments made under this part pursuant to the statutory license under 17 U.S.C. 112(e).

Ephemeral Recording is a phonorecord created for the purpose of facilitating a transmission of a public performance

PART 384—RATES AND TERMS FOR THE MAKING OF EPHEMERAL RECORDINGS BY BUSINESS ESTABLISHMENT SERVICES

Sec. 384.1 General.
384.2 Definitions.
384.3 Royalty fees for Ephemeral Recordings.
384.4 Terms for making payment of royalty fees and statements of account.
384.5 Confidential information.
384.6 Verification of royalty payments.
384.7 Verification of royalty distributions.
384.8 Unclaimed funds.

AUTHORITY: 17 U.S.C. 112(e), 801(b)(1).
SOURCE: 73 FR 16199, Mar. 27, 2008, unless otherwise noted.

§ 384.1 General.

(a) Scope. This part 384 establishes rates and terms of royalty payments for the making of Ephemeral Recordings by a Business Establishment Service, as defined in §384.2, in accordance with the provisions of 17 U.S.C. 112(e), during the period January 1, 2014, through December 31, 2018 (the “License Period”).

(b) Legal compliance. Licensees relying upon the statutory license set forth in 17 U.S.C. 112(e) shall comply with the requirements of that section, the rates and terms of this part and any other applicable regulations.

(c) Relationship to voluntary agreements. Notwithstanding the royalty rates and terms established in this part, the rates and terms of any license agreements entered into by Copyright Owners and Licensees shall apply in lieu of the rates and terms of this part to the making of Ephemeral Recordings within the scope of such agreements.

[73 FR 16199, Mar. 27, 2008, as amended at 78 FR 66277, Nov. 5, 2013]

§ 384.2 Definitions.

For purposes of this part, the following definitions shall apply:


Collective is the collection and distribution organization that is designated by the Copyright Royalty Judges. For the License Period, the Collective is SoundExchange, Inc.

Copyright Owners are sound recording copyright owners who are entitled to royalty payments made under this part pursuant to the statutory license under 17 U.S.C. 112(e).

Ephemeral Recording is a phonorecord created for the purpose of facilitating a transmission of a public performance