

For the reasons set out in the preamble, 18 CFR Part 1310 is revised to read as follows:

PART 1310—ADMINISTRATIVE COST RECOVERY

Sec.

1310.1 Purpose.

1310.2 Application.

1310.3 Assessment of administrative charge.

Authority: 16 U.S.C. 831–831dd; 31 U.S.C. 9701.

§ 1310.1 Purpose.

The purpose of the regulations in this part is to establish a schedule of fees to be charged in connection with the disposition and uses of, and activities affecting, real property in TVA's custody or control; approval of plans under Section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y–1); and certain other activities in order to help ensure that such activities are self-sustaining to the full extent possible.

§ 1310.2 Application.

(a) *General.* TVA will undertake the following actions only upon the condition that the applicant pay to TVA such administrative charge as the Vice-President of Land Management or the Manager of Power Properties (hereinafter "responsible land manager"), as appropriate, shall assess in accordance with § 1310.3; provided, however, that the responsible land manager may waive payment where he/she determines that there is a corresponding benefit to TVA or that such waiver is otherwise in the public interest:

(1) Conveyances and abandonment of TVA land or landrights.

(2) Licenses and other uses of TVA land not involving the disposition of TVA real property or interests in real property.

(3) Actions taken to suffer the presence of unauthorized fills and structures over, on, or across TVA land or landrights, and including actions not involving the abandonment or disposal of TVA land or landrights.

(4) Actions taken to approve fills, structures, or other obstructions under Section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y–1), and TVA's regulations issued thereunder at part 1304 of this chapter.

(b) *Exemption.* An administrative charge shall not be made for the following actions:

(1) Conveyances pursuant to section 4(k)(d) of the Tennessee Valley

Authority Act of 1933, as amended (16 U.S.C. 831c(k)(d)).

(2) Releases of unneeded mineral right options.

(3) TVA phosphate land and mineral transactions.

(4) Permits and licenses for use of TVA land by distributors of TVA power.

(c) *Quota deer hunt and turkey hunt applications.* Quota deer hunt and turkey hunt permit applications will be processed by TVA if accompanied by the fee prescribed in § 1310.3(d).

§ 1310.3 Assessment of administrative charge.

(a) *Range of charges.* Except as otherwise provided herein, the responsible land manager shall assess a charge which he/she determines in his/her sole judgment to be approximately equal to the administrative costs incurred by TVA for each action including both the direct cost to TVA and applicable overheads. In determining the amount of such charge, the responsible land manager may establish a standard charge for each category of action rather than determining the actual administrative costs for each individual action. The standard charge shall be an amount approximately equal to TVA's actual average administrative costs for the category of action. Charges shall be not less than the minimum or greater than the maximum amount specified herein, except as otherwise provided in paragraph (c) of this section.

(1) Land transfers—\$500–\$10,000.

(2) Use permits or licenses—\$50–\$5,000.

(3) Actions taken to approve plans for fills, structures, or other obstructions under Section 26a of the TVA Act—\$100–\$5,000.

(4) Abandonment of transmission line easements and rights-of-way—\$100–\$1,500.

(5) Quota deer hunt or turkey hunt applications—\$5–\$25.

(b) *Basis of charge.* The administrative charge assessed by the responsible land manager shall, to the extent applicable, include the following costs:

(1) Appraisal of the land or landrights affected;

(2) Assessing applicable rental fees;

(3) Compliance inspections and other field investigations;

(4) Title and record searches;

(5) Preparation for and conducting public auction and negotiated sales;

(6) Mapping and surveying;

(7) Preparation of conveyance instrument, permit, or other

authorization or approval instrument;

(8) Coordination of the proposed

action within TVA and with other

Federal, State, and local agencies;

(9) Legal review; and

(10) Administrative overheads associated with the transaction.

(c) *Assessment of charge when actual administrative costs significantly exceed established range.* When the responsible land manager determines that the actual administrative costs are expected to significantly exceed the range of costs established in paragraph (a) of this section, such manager shall not proceed with the TVA action until agreement is reached on payment of a charge calculated to cover TVA's actual administrative costs.

(d) *Quota deer hunt and turkey hunt application fees.* A fee for each person in the amount prescribed by the responsible land manager must accompany the complete application form for a quota deer hunt and turkey hunt permit. Applications will not be processed unless accompanied by the correct fee amount. No refunds will be made to unsuccessful applicants, except that fees received after the application due date will be refunded.

(e) *Additional charges.* In addition to the charges assessed under these regulations, TVA may impose a charge in connection with environmental reviews or other environmental investigations it conducts under its policies or procedures implementing the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

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Senior Vice President, Resource Group.

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 251, 252, 253, 254, 255, 256, 257, 258, and 259

[Docket No. RM 93–12 and RM 94–1A]

Copyright Arbitration Royalty Panels; Correction

AGENCY: Copyright Office, Library of Congress.

ACTION: Correction to regulations.

SUMMARY: This document contains corrections to the former Copyright Royalty Tribunal (CRT) regulations that were reissued by the Library of Congress and the Copyright Office on December 22, 1993, and to the interim copyright arbitration rules that were published on May 9, 1994.

EFFECTIVE DATE: These corrections are effective February 13, 1995.

FOR FURTHER INFORMATION CONTACT: William Roberts, Senior Attorney,

Copyright Arbitration Royalty Panels, P.O. Box 70977, Southwest Station, Washington, D.C. 20024 (202-707-8380).

SUPPLEMENTARY INFORMATION: On December 17, 1993, the Copyright Royalty Tribunal was abolished, and its functions were transferred to copyright arbitration royalty panels (CARPs) to be convened and supported by the Library of Congress and the Copyright Office. Copyright Royalty Tribunal Reform Act of 1993 (CRT Reform Act), Pub.L. No. 103-198, 107 Stat. 2304 (1993). The CRT Reform Act directed the Library and the Office to adopt the rules and regulations of the former CRT until later rules were adopted. Accordingly, the CRT's rules were republished on December 22, 1993. 58 FR 67690 (December 22, 1993).

The Library and the Office adopted interim rules on May 9, 1994, and final rules on December 7, 1994 adapting the former CRT rules to the new copyright arbitration system. 59 FR 23964 (May 9, 1994); 59 FR 63025 (December 7, 1994).

In reviewing the former CRT rules and our new CARP rules, we have discovered a number of substantive and nonsubstantive technical errors.

The first was an error in the interim rules published on May 9, 1994, in which the reference in § 251.32(a) to "§ 251.30" should read "§ 251.31".

The second error occurred in § 251.52(c), Proposed findings and conclusions. To distinguish between proposed findings of fact and proposed conclusions, the sentence in paragraph (c) which reads, "Proposed findings shall be stated separately.", should be removed from paragraph (c) and placed in a new paragraph (d).

The third was an error in the 1992 public broadcasting rate adjustment proceeding at the CRT. In § 253.6(c)(4), the rate listed there is applicable to the years 1993-1997, not 1988-1992, as published.

The fourth error is found in § 254.2 which defines coin-operated phonorecord player. The section references the definition in former section 116 of the Copyright Act, which was repealed by the CRT Reform Act. Section 254.2 is therefore revised by inserting the definitional language formerly contained in section 116.

The fifth correction is to the mechanical royalty rates listed in § 255.3. When the CRT adjusted the royalty rate in 1993 to take effect in 1994, it dropped an earlier paragraph that described the rates that were in effect for the period 1992-1993. It left the impression that the rates effective starting in 1990 were in effect for four

years, instead of two. We are restoring that paragraph, so that all the rates, beginning in 1981, are listed in the rules.

The sixth correction is removal of the reference, "(Supp. IV 1992)", wherever it appears in part 259. The reference, "(Supp. IV 1992)", refers to the Audio Home Recording Act of 1992, Pub.L. No. 102-563, 106 Stat. 4237, which amended Title 17, of the U.S. Code, by adding a new Chapter 10. Since the Audio Home Recording Act has been incorporated into title 17 at Chapter 10, there is no need to continue citation to the Supplement.

The seventh correction is to § 259.2, the section on filing a claim for digital audio recording royalties. When we published our interim rules on May 9, 1994, the Office substituted the phrase "Library of Congress" or "Copyright Office", as appropriate, for "Copyright Royalty Tribunal" wherever the phrase was found. However, in reviewing § 259.2, it appears that it would have been more accurate to substitute the phrase "Copyright Office and/or Copyright Arbitration Panels" for "Copyright Royalty Tribunal" as a recognition of the split nature of the proceedings.

And finally, three terms will be added to the List of Subjects. Under the heading, 37 CFR Part 258, the term "Cable television" should be replaced with the term "Satellite" to more accurately reflect the content of this section. Additionally, the term "rate" shall be added to the headings, 37 CFR Part 255 and 37 CFR Part 258. The addition of this term will harmonize the subject lists for these sections with the headings for 37 CFR 253, 37 CFR Part 254 and 37 CFR Part 256. We are making that change here and correcting any nonsubstantive technical errors.

List of Subjects

37 CFR Part 251

Administrative practice and procedure, Hearing and appeal procedures.

37 CFR Part 252

Cable television, Claims, Copyright.

37 CFR Part 253

Copyright, Music, Radio, Rates, Television.

37 CFR Part 254

Copyright, Jukeboxes, Rates.

37 CFR Part 255

Copyright, Music, Recordings.

37 CFR Part 256

Cable television, Rates.

37 CFR Part 257

Claims, Copyright, Satellites.

37 CFR Part 258

Copyright, Satellites.

37 CFR Part 259

Claims, Copyright, Digital audio recording devices and media.

PART 251—COPYRIGHT ARBITRATION ROYALTY PANEL RULES OF PROCEDURE

Accordingly, 37 CFR chapter II is corrected by making the following corrections and amendments:

1. and 2. The authority citation for part 251 continues to read as follows:

Authority: 17 U.S.C. 801-803.

§ 251.13 [Corrected]

3. Section 251.13(f) is corrected by adding an "a" before the word "clearly".

§ 251.32 [Corrected]

4. In § 251.32(a), the reference to "§ 251.30" is revised to read "§ 251.31".

§ 251.33 [Corrected]

5. The first sentence in § 251.33(c) is corrected by replacing the word "a" with "an" in the phrase "to serve as an arbitrator".

§ 251.38 [Corrected]

6. In § 251.38(b), the word "for" is added before the word "travel".

§ 251.44 [Corrected]

7. In § 251.44(e)(1), the first "it" in the last sentence is revised to read "the document".

8. Section 251.44(g) is corrected by revising "telefacsimile" to read "facsimile".

9. Section 251.48(f)(1)(ii) is revised to read as follows:

§ 251.48 Rules of evidence.

* * * * *

(b) * * *

(1) * * *

(ii) An explanation of the method of selecting the sample and of the characteristics which were measured and counted.

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§ 251.50 [Corrected]

10. In § 251.50, "That" is revised to read "that".

§ 251.52 [Amended]

11. In § 251.52 the sentence which reads, "Proposed conclusions shall be stated separately." is removed from paragraph (c) and a new paragraph (d) is added to read as follows:

§ 251.52 Proposed findings and conclusions.

* * * * *

(d) Proposed conclusions shall be stated separately.

PART 252—FILING OF CLAIMS TO CABLE ROYALTY FEES

12. and 13. The authority citation for part 252 continues to read as follows:

Authority: 17 U.S.C. 111(d)(4), 801, 803.

§ 252.1 [Corrected]

14. Section 252.1 is corrected by removing the word “to” before the U.S. Code citation.

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

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

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

§ 253.6 [Corrected]

16. In § 253.6(c)(4), the phrase “1988 through 1992,” is revised to read “1993 through 1997.”

PART 254—ADJUSTMENT OF ROYALTY RATE FOR COIN-OPERATED PHONORECORD PLAYERS

17. The authority citation for part 254 continues to read as follows:

Authority: 17 U.S.C. 116, 801(b)(1).

§ 254.2 [Corrected]

18. Section 254.2 is revised to read as follows:

§ 254.2 Definition of coin-operated phonorecord player.

As used in this part, the term *coin-operated phonorecord player* is a machine or device that:

(a) Is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;

(b) Is located in an establishment making no direct or indirect charge for admission;

(c) Is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(d) Affords a choice of works available for performance and permits the choice

to be made by the patrons of the establishment in which it is located.

PART 255—ADJUSTMENT OF ROYALTY PAYABLE UNDER COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS

19. The authority citation for part 255 continues to read as follows:

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

§ 255.3 [Corrected]

20. In § 255.3, paragraph (a), the phrase “paragraphs (b), (c), (d), (e), (f) and (g) of this section.” is revised to read “paragraphs (b), (c), (d), (e), (f), (g) and (h) of this section.”

21. In § 255.3, paragraph (b), the phrase “paragraphs (c), (d), (e), (f) and (g) of this section.” is revised to read “paragraphs (c), (d), (e), (f), (g) and (h) of this section.”

22. In § 255.3, paragraph (c), the phrase “paragraphs (d), (e), (f) and (g) of this section.” is revised to read “paragraphs (d), (e), (f), (g) and (h) of this section.”

23. In § 255.3, paragraph (d), the phrase “paragraphs (e), (f) and (g) of this section.” is revised to read “paragraphs (e), (f), (g) and (h) of this section.”

24. In § 255.3, paragraph (e), the phrase “paragraphs (f) and (g) of this section.” is revised to read “paragraphs (f), (g) and (h) of this section.”

25. In § 255.3, paragraphs (f) and (g) are redesignated (g) and (h), respectively, the reference in redesignated paragraph (g) to “paragraph (g)” is revised to read “paragraph (h)”, and a new paragraph (f) is added as follows:

§ 255.3 Adjustment of royalty rate.

* * * * *

(f) For every phonorecord made and distributed on or after January 1, 1992, the royalty payable with respect to each work embodied in the phonorecord shall be 6.25 cents, or 1.2 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (g) and (h) of this section.

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PART 256—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

26. The authority citation for part 256 continues to read as follows:

Authority: 17 U.S.C. 702, 802.

§ 256.1 [Corrected]

27. The first sentence of § 256.1 is corrected by revising “or” to read “for”.

PART 259—FILING OF CLAIMS TO DIGITAL AUDIO RECORDING DEVICES AND MEDIA ROYALTY PAYMENTS

28. The authority citation for part 259 continues to read as follows:

Authority: 17 U.S.C. 1007(a)(1).

§ 259.1 [Amended]

29. Section 259.1 is amended by removing all references to “(Supp. IV 1992)”.

§ 259.2 [Corrected]

30. In paragraphs (a) and (b) of § 259.2, “and/or Copyright Arbitration Royalty Panels” is added after the phrase “Copyright Office” and before the phrase “in royalty filing”.

§ 259.3 [Amended]

31. Paragraph (a) of § 259.3 is amended by removing all references to “(Supp. IV 1992)”.

§ 259.4 [Amended]

32. Paragraphs (a) and (b) of § 259.4 are amended by removing all references to “(Supp. IV 1992)”.

Dated: February 7, 1995.

Marybeth Peters,

Register of Copyrights.

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37 CFR Parts 251 and 259

[Docket No. RM 94-1A]

Copyright Arbitration Royalty Panels; Correction

AGENCY: Copyright Office, Library of Congress.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations that were published Wednesday, December 7, 1994, concerning copyright arbitration royalty panels. The first correction concerns the removal of § 251.72, and the second is a grammatical correction of § 259.3(d).

EFFECTIVE DATE: These regulations are effective February 13, 1995.

FOR FURTHER INFORMATION CONTACT: William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024, (202-707-8380).

SUPPLEMENTARY INFORMATION: On December 7, 1994, the final rules governing the copyright arbitration royalty panels (CARP) were published in the **Federal Register**. As published, the final regulations contained two errors. 59 FR 63025 (December 7, 1994).