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Copyright Royalty Board

37 CFR Part 381

[Docket No. 16-CRB-0016-PBR-COLA (2017)]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) of 2% in the royalty rates that colleges, universities, and other educational institutions not affiliated with National Public Radio pay for the use of published nondramatic musical compositions in the SESAC repertory for the statutory license under the Copyright Act for noncommercial broadcasting.

DATES: *Effective date:* January 1, 2017. *Applicability dates:* These rates are applicable to the period January 1, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle, Attorney Advisor, by telephone at (202) 707-7658 or by email at *crb@loc.gov*.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, title 17 of the United States Code, creates a statutory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting.

On November 29, 2012, the Copyright Royalty Judges (Judges) adopted final regulations governing the rates and terms of copyright royalty payments under section 118 of the Copyright Act for the license period 2013–2017. *See* 75 FR 71104. Pursuant to these regulations, on or before December 1 of each year, the Judges shall publish in the **Federal Register** a notice of the change in the cost of living for the rate codified at § 381.5(c)(3) relating to compositions in the repertory of SESAC. The adjustment, fixed to the nearest dollar, shall be the greater of “the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) [CPI-U] * * * during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1, of that year,” or 2%. 37 CFR 381.10.

The change in the cost of living as determined by the CPI-U during the period from the most recent index

published before December 1, 2014, to the most recent index published before December 1, 2016, is 1.6%.¹ In accordance with 37 CFR 381.10(b), the Judges announce that the COLA for calendar year 2017 shall be 2%. Application of the 2% COLA to the current rate for the performance of published nondramatic musical compositions in the repertory of SESAC—\$149 per station—results in an adjusted rate of \$152 per station.

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

Final Regulations

In consideration of the foregoing, the Judges amend part 381 of title 37 of the Code of Federal Regulations as follows:

PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 381 continues to read as follows:

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

■ 2. Section 381.5 is amended by revising paragraph (c)(3)(v) to read as follows:

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

- * * * * *
- (c) * * *
- (3) * * *
- (v) 2017: \$152 per station.
- * * * * *

Dated: November 17, 2016.
Suzanne M. Barnett,
Chief Copyright Royalty Judge.
 [FR Doc. 2016-28178 Filed 11-22-16; 8:45 am]
BILLING CODE 1410-72-P

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Copyright Royalty Board

37 CFR Part 386

[Docket No. 16-CRB-0017-SA-COLA (2017)]

Cost of Living Adjustment to Satellite Carrier Compulsory License Royalty Rates

AGENCY: Copyright Royalty Board, Library of Congress.

¹ On November 17, 2016, the Bureau of Labor Statistics announced that the CPI-U increased 1.6% over the last 12 months.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) of 1.6% in the royalty rates satellite carriers pay for a compulsory license under the Copyright Act. The COLA is based on the change in the Consumer Price Index from October 2015 to October 2016.

DATES: *Effective Date:* January 1, 2017. *Applicability Dates:* These rates are applicable to the period January 1, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle, Attorney Advisor, by telephone at (202) 707-7658 or by email at *crb@loc.gov*.

SUPPLEMENTARY INFORMATION: The satellite carrier compulsory license establishes a statutory copyright licensing scheme for the retransmission of distant television programming by satellite carriers. 17 U.S.C. 119. Congress created the license in 1988 and has reauthorized the license for additional five-year periods, most recently with the passage of the STELA Reauthorization Act of 2014, Public Law 113–200.

On August 31, 2010, the Copyright Royalty Judges (Judges) adopted rates for the section 119 compulsory license for the 2010–2014 term. *See* 75 FR 53198. The rates were proposed by Copyright Owners and Satellite Carriers¹ and were unopposed. *Id.* Section 119(c)(2) of the Copyright Act provides that, effective January 1 of each year, the Judges shall adjust the royalty fee payable under Section 119(b)(1)(B) “to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) [CPI-U] published by the Secretary of Labor before December 1 of the preceding year.” Section 119 also requires that “[n]otification of the adjusted fees shall be published in the **Federal Register** at least 25 days before January 1.” 17 U.S.C. 119(c)(2).

The change in the cost of living as determined by the CPI-U during the period from the most recent index published before December 1, 2015, to the most recent index published before December 1, 2016, is 1.6%.² Application of the 1.6% COLA to the current rate for the secondary transmission of broadcast stations by satellite carriers for private

¹ Program Suppliers and Joint Sports Claimants comprised the Copyright Owners while DIRECTV, Inc., DISH Network, LLC, and National Programming Service, LLC, comprised the Satellite Carriers.

² On November 17, 2016, the Bureau of Labor Statistics announced that the CPI-U increased 1.6% over the last 12 months.

home viewing—27 cents per subscriber per month—results in an unchanged rate of 27 cents per subscriber per month (rounded to the nearest cent). See 37 CFR 386.2(b)(1). Application of the 1.6% COLA to the current rate for viewing in commercial establishments—56 cents per subscriber per month—results in a rate of 57 cents per subscriber per month (rounded to the nearest cent). See 37 CFR 386.2(b)(2).

List of Subjects in 37 CFR Part 386

Copyright, Satellite, Television.

Final Regulations

In consideration of the foregoing, the Judges amend part 386 of title 37 of the Code of Federal Regulations as follows:

PART 386—ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

■ 1. The authority citation for part 386 continues to read as follows:

Authority: 17 U.S.C. 119(c), 801(b)(1).

■ 2. Section 386.2 is amended by adding paragraphs (b)(1)(viii) and (b)(2)(viii) as follows:

§ 386.2 Royalty fee for secondary transmission by satellite carriers.

- * * * * *
- (b) * * *
- (1) * * *
- (viii) 2017: 27 cents per subscriber per month.
- (2) * * *
- (viii) 2017: 57 cents per subscriber per month.

Dated: November 17, 2016.

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

[FR Doc. 2016–28180 Filed 11–22–16; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2014–0507; FRL–9955–49–Region 4]

Air Plan Approval; FL Infrastructure Requirements for the 2010 1-hour NO₂ NAAQS

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve the State Implementation Plan (SIP) submission, submitted by the State of Florida, through the Florida

Department of Environmental Protection (FDEP), on January 22, 2013, to demonstrate that the State meets certain infrastructure requirements of the Clean Air Act (CAA or Act) for the 2010 1-hour nitrogen dioxide (NO₂) national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an “infrastructure” SIP. FDEP certified that the Florida SIP contains provisions that ensure the 2010 1-hour NO₂ NAAQS is implemented, enforced, and maintained in Florida. EPA has determined that Florida’s infrastructure SIP submission, provided to EPA on January 22, 2013, satisfies certain required infrastructure elements for the 2010 1-hour NO₂ NAAQS.

DATES: This rule will be effective December 23, 2016.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2014–0507. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays. **FOR FURTHER INFORMATION CONTACT:** Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8726. Mr. Richard Wong can also be reached via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On January 22, 2010 (75 FR 6474, February 9, 2010), EPA promulgated a new 1-hour primary NAAQS for NO₂ at a level of 100 parts per billion, based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2010 NO₂ NAAQS to EPA no later than January 22, 2013.

In a proposed rulemaking published on July 20, 2016 (81 FR 47094), EPA proposed to approve Florida’s 2010 1-hour NO₂ NAAQS infrastructure SIP submission submitted on January 22, 2013, with the exception of the elements related to the ambient air quality monitoring and data system of section 110(a)(2)(B), and the prevention of significant deterioration (PSD) permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J). EPA is not acting on Florida’s January 22, 2013, infrastructure SIP submission regarding the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J) for the 2010 1-hour NO₂ NAAQS because it previously approved these requirements. See 80 FR 14019, March 18, 2015. Regarding section 110(a)(2)(B), EPA is not taking any action on this portion of Florida’s 2010 1-hour NO₂ NAAQS infrastructure SIP submission in this action and will instead address this requirement in a separate action. Also note that EPA did not propose any action regarding the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of prongs 1 and 2 of section 110(a)(2)(D)(i) because Florida’s January 22, 2013 SIP submission did not address these requirements. The details of Florida’s submission and the rationale for EPA’s actions for this final rulemaking are explained in the July 20, 2016, proposed rulemaking. Comments on the proposed rulemaking were due on or before August 19, 2016. EPA received no adverse comments on the proposed action.