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Copyright Royalty Board

37 CFR Part 381

[Docket No. 16-CRB-0002-PBR (2018-2022) COLA (2019)]

Cost of Living Adjustment to Public Broadcasters Compulsory License Royalty Rate

AGENCY: Copyright Royalty Board, Library of Congress.**ACTION:** Final rule; cost of living adjustment.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) to the royalty rate that noncommercial radio stations at certain colleges, universities, and other educational institutions that are not affiliated with National Public Radio must pay for the use in 2019 of published nondramatic musical compositions in the SESAC repertory pursuant to the statutory license under the Copyright Act for noncommercial broadcasting. Because the current rates did not become final until January 2018, the revised regulation includes the revised rate for 2018 that reflects the cost of living adjustment announced in 2017.

DATES:

Effective date: December 28, 2018.
Applicability dates: These rates are applicable to the period beginning January 1, 2019, and ending December 31, 2019.

FOR FURTHER INFORMATION CONTACT:

Anita Blaine, CRB Program Assistant, 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 January 19, 2018, 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 2018-2022. *See* 83 FR 2743. Pursuant to these regulations, on or before December 1 of each year, the Judges shall publish in the **Federal Register** notice of the change in the cost of living and a revised schedule of the rates 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 (1) 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) 1.5%. 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 prior to the previous notice, *i.e.*, before December 1, 2017,¹ to the most recent index published before December 1, 2018, is 2.5%.² In accordance with 37 CFR 381.10(b), the Judges announce that the COLA for calendar year 2019 shall be 2.5%. Application of the 2.5% COLA to the 2018 rate for the performance of published nondramatic musical compositions in the repertory of SESAC—\$155 per station³—results in an adjusted rate of \$159 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 paragraphs (c)(3)(i) and (ii) to read as follows:

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

* * * * *

(c) * * *

(3) * * *

(i) 2018: \$155 per station.

¹ *See* Cost of Living Adjustment to Satellite Carrier Compulsory License Royalty Rates, 82 FR 55946 (Nov. 27, 2017) (previous notice of the change in cost of living).

² On November 14, 2018, the Bureau of Labor Statistics announced that the CPI-U increased 2.5% over the last 12 months.

³ The 2018 rate is calculated by applying a 2% COLA (based on the CPI-U published in November 2017) to the rate for 2017 (\$152). *See* https://www.bls.gov/news.release/archives/cpi_11152017.htm (last accessed on November 14, 2018).

(ii) 2019: \$159 per station.

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Suzanne M. Barnett,

Chief Copyright Royalty Judge.

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Copyright Royalty Board

37 CFR Part 386

[Docket No. 18-CRB-0011-SA-COLA (2019)]

Cost of Living Adjustment to Satellite Carrier Compulsory License Royalty Rates

AGENCY: Copyright Royalty Board (CRB), Library of Congress.**ACTION:** Final rule; cost of living adjustment.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) of 2.5% 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 2017 to October 2018.

DATES:

Effective date: January 1, 2019.

Applicability dates: These rates are applicable to the period January 1, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT:

Anita Blaine, CRB Program Assistant, 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 distant retransmission of 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

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.