

through January 31, 2010 during naval training exercises. If the training is concluded prior to the scheduled termination time, the Captain of the Port (COTP) will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definitions apply to this section:

(1) *Designated representative* means any Commissioned, Warrant, or Petty Officers of the Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the COTP.

(2) *Non-authorized personnel and vessels*, means any civilian boats, fishermen, divers, and swimmers.

(d) *Regulations.*

(1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the COTP San Diego or his designated representative.

(2) Non-authorized personnel and vessels requesting permission to transit through the safety zone may request authorization to do so from the COTP San Diego or his designated representative. They may be contacted on VHF-FM Channel 16, or at telephone number (619) 278-7033.

(3) Naval units involved in the exercise are allowed in the confines of the established safety zone.

(4) All persons and vessels shall comply with the instructions of the Coast Guard COTP or his designated representative.

(5) Upon being hailed by U.S. Coast Guard or other official personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(6) The Coast Guard may be assisted by other federal, state, or local agencies and the U.S. Navy.

Dated: November 12, 2009.

**T. H. Farris,**

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

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### Copyright Royalty Board

#### 37 CFR Part 381

[Docket No. 2009-7 CRB NCBRA]

### 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 -0.2% in the royalty rates that colleges, universities, and other nonprofit educational institutions that are not affiliated with National Public Radio pay for the use of published nondramatic musical compositions in the ASCAP, BMI and SESAC repertories. The COLA is based on the change in the Consumer Price Index from October 2008 to October 2009.

**DATES:** *Effective Date:* January 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** LaKeshia Keys, CRB Program Specialist. Telephone: (202) 707-7658. E-mail: [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** Section 118 of the Copyright Act, title 17 of the United States Code, creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR parts 253 and 381.

Final regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works for the license period beginning January 1, 2008, and ending December 31, 2012, were published in the **Federal Register** on November 30, 2007. See 72 FR 67646. Pursuant to these regulations, on or before December 1 of each year the Judges shall publish a notice of the change in the cost of living as determined by the Consumer Price Index (all urban 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. See 37 CFR 381.10(a). The regulations also require that the Judges publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertories by public broadcasting entities licensed to colleges and universities, reflecting the change in the CPI-U. 37 CFR 381.10(a)(requiring publication of a revised schedule of rates for 37 CFR 381.5). Accordingly, the Judges are hereby announcing the change in the CPI-U and applying the annual COLA to the rates set out in 37 CFR 381.5(c). 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, 2008, to the most recent index published before December 1, 2009, is -0.2%.<sup>1</sup> Rounding to the nearest dollar,<sup>2</sup> the royalty rates for the performance of published nondramatic musical compositions in the repertories of ASCAP, BMI, and SESAC are \$297, \$297, and \$120,<sup>3</sup> respectively.

#### List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

#### Final Regulations

■ For the reasons set forth in the preamble, Part 381 of title 37 of the Code of Federal Regulations is amended to read 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)(1) and (c)(2) as follows:

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

\* \* \* \* \*

(c) \* \* \*

(1) For all such compositions in the repertory of ASCAP, \$297 annually.

(2) For all such compositions in the repertory of BMI, \$297 annually.

\* \* \* \* \*

Dated: November 23, 2009.

**James Scott Sledge,**

*Chief, U.S. Copyright Royalty Judge.*

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<sup>1</sup> The most recent CPI-U figures are published in November of each year and use the period 1982-1984 to establish a reference base of 100. The index for October 2008 was 218.783, while the figure for October 2009 was 215.969.

<sup>2</sup> See 37 CFR 381.10(b) (adjusted royalty rates shall be "fixed at the nearest dollar").

<sup>3</sup> The 2009 rate for SESAC remains the same as it was in 2008.