

latest changes to the Internal Revenue Code, the provisions of the Act, and Circular 230, and the proposed regulations will generally be covered as part of that training. These regulations will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. A regulatory flexibility analysis, therefore, is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the regulations' impact on small businesses.

### Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the substance of the proposed regulations, as well as on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

### Drafting Information

The principal author of these regulations is Matthew S. Cooper of the Office of the Associate Chief Counsel (Procedure and Administration).

### List of Subjects in 31 CFR Part 10

Accountants, Administrative practice and procedure, Lawyers, Reporting and recordkeeping requirements, Taxes.

### Proposed Amendments to the Regulations

Accordingly, 31 CFR part 10 is proposed to be amended to read as follows:

## PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

**Paragraph 1.** The authority citation for 31 CFR part 10 continues to read as follows:

**Authority:** Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301, 500, 551–559; 31 U.S.C. 321; 31 U.S.C. 330; Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR, 1949–1953 Comp., p. 1017.

**Paragraph 2.** Section 10.34(a) and (e), and paragraph (f) is revised to read as follows:

### § 10.34 Standards with respect to tax returns and documents, affidavits and other papers.

(a) *Tax returns.* A practitioner may not sign a tax return as a preparer unless the practitioner has a reasonable belief that the tax treatment of each position on the return would more likely than not be sustained on its merits (the more likely than not standard), or there is a reasonable basis for each position and each position is adequately disclosed to the Internal Revenue Service. A practitioner may not advise a client to take a position on a tax return, or prepare the portion of a tax return on which a position is taken, unless—

(1) The practitioner has a reasonable belief that the position satisfies the more likely than not standard; or

(2) The position has a reasonable basis and is adequately disclosed to the Internal Revenue Service.

\* \* \* \* \*

(e) *Definitions.* For purposes of this section—

(1) *More likely than not.* A practitioner is considered to have a reasonable belief that the tax treatment of a position is more likely than not the proper tax treatment if the practitioner analyzes the pertinent facts and authorities, and based on that analysis reasonably concludes, in good faith, that there is a greater than fifty-percent likelihood that the tax treatment will be upheld if the IRS challenges it. The authorities described in 26 CFR 1.6662–4(d)(3)(iii), or any successor provision, of the substantial understatement penalty regulations may be taken into account for purposes of this analysis.

(2) *Reasonable basis.* A position is considered to have a reasonable basis if it is reasonably based on one or more of the authorities described in 26 CFR 1.6662–4(d)(3)(iii), or any successor provision, of the substantial understatement penalty regulations. Reasonable basis is a relatively high standard of tax reporting, that is, significantly higher than not frivolous or not patently improper. The reasonable basis standard is not satisfied by a return position that is merely arguable or that is merely a colorable claim. The possibility that a tax return will not be audited, that an issue will not be raised on audit, or that an issue will be settled may not be taken into account.

(3) *Frivolous.* A position is frivolous if it is patently improper.

(f) *Effective/applicability date.* Section 10.34(a) and (e) is applicable for returns filed or advice provided on or

after the date that final regulations are published in the **Federal Register**, but no earlier than January 1, 2008.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: September 19, 2007.

**Robert Hoyt,**

*General Counsel, Office of the Secretary.*

[FR Doc. E7–18919 Filed 9–25–07; 8:45 am]

**BILLING CODE 4830–01–P**

## LIBRARY OF CONGRESS

### Copyright Royalty Board

### 37 CFR Part 381

[Docket No. 2006–2 CRB NCBRA]

### Noncommercial Educational Broadcasting Statutory License

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Copyright Royalty Judges are publishing for comment certain royalty rates for use of a musical work in a Public Broadcasting Service-distributed program pursuant to the noncommercial educational broadcasting statutory license contained in the Copyright Act. The rates published herein correct an error in the rates published for comment in the **Federal Register** on April 17, 2007.

**DATES:** Comments and objections, if any, are due on or before October 26, 2007.

**ADDRESSES:** Comments and objections may be sent electronically to [crb@loc.gov](mailto:crb@loc.gov). In the alternative, send an original, five copies and an electronic copy on a CD either by mail or hand delivery. Please do not use multiple means of transmission. Comments and objections may not be delivered by an overnight delivery service other than the U.S. Postal Service Express Mail. If by mail (including overnight delivery), comments and objections must be addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977. If hand delivered by a private party, comments and objections must be brought to the Copyright Office Public Information Office, Library of Congress, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000. If delivered by a commercial courier, comments and objections must be delivered between 8:30 a.m. and 4 p.m. to the Congressional Courier Acceptance Site located at 2nd and D Street, NE., Washington, DC, and the

envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue, SE., Washington, DC 20559-6000.

**FOR FURTHER INFORMATION CONTACT:**

Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney-Advisor, by telephone at (202) 707-7658 or e-mail at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 17, 2007, the Copyright Royalty Judges ("Judges") published a notice in the **Federal Register** requesting comment on proposed regulations that set rates and terms for the noncommercial educational broadcasting statutory license under section 118 of the Copyright Act, title 17 of the United States Code, for the license period 2008–2012. 72 FR 19138. These proposed rates and terms were part of a joint proposal submitted on March 15, 2007, by the following parties to this proceeding: the American Council on Education ("ACE"); the American Society of Composers, Authors and Publishers ("ASCAP"); Broadcast Music, Inc. ("BMI"); the Harry Fox Agency ("HFA"); the National Music Publishers' Association, Inc. ("NMPA"); National Public Radio, Inc. ("NPR"); the National Religious Broadcasters Noncommercial Music License Committee ("NRBNMLC"); the Public Broadcasting Service ("PBS") and SESAC, Inc.

Section 801(b)(7)(A) of the Copyright Act allows the Judges to adopt such a proposal, which would be binding on all copyright owners and public broadcasting entities,<sup>1</sup> provided that:

(i) the Copyright Royalty Judges shall provide to those that would be bound by the terms, rates, or other determination set by any agreement in a proceeding to determine royalty rates an opportunity to comment on the agreement and shall provide to participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as a basis for statutory terms and rates; and

(ii) the Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement, if any participant described in clause (i) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before

them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.

17 U.S.C. 801(b)(7)(A). Accordingly, the Judges published the joint proposal, with certain modifications, pursuant to this provision. See 72 FR at 19139 (April 17, 2007). Comments were due on or before May 17, 2007.

In response to the notice, the Judges received only one comment, which was jointly submitted by NPR and PBS. The parties stated in pertinent part that due to "an inadvertent administrative error [in the parties' joint proposal], some of the NPR and PBS proposed royalty rates \* \* \* were incorrectly transcribed," thereby making the rates proposed in § 381.7(b)(1)(i) "incorrect." Joint Comments of National Public Radio and Public Broadcasting Service, filed May 15, 2007, at 2. They then set out the intended rates, which were lower than those published on April 17. *Id.*

Consequently, as required by section 801(b)(7)(A), the Judges are publishing for comment rates correcting those previously proposed in § 381.7(b)(1)(i). Therefore, the public may comment and object only to the rates contained in today's notice of proposed rulemaking. Those who do comment and object, however, must be prepared to participate in further proceedings in this docket to establish rates and terms for the section 118 license.

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

Copyright, Music, Radio, Television, Rates.

**Proposed Regulations**

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to amend part 381 to Chapter III of title 37 of the Code of Federal Regulations, as proposed on April 17, 2007 (72 FR 19138), to read as follows:

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

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

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

2. Section 381.7 is amended by revising paragraphs (b)(1)(i) (A) through (D) as follows:

**§ 381.7 Recording rights, rates and terms.**

\* \* \* \* \*

(b) \* \* \* (1)(i) \* \* \*

	2008–2012
(B) Concert feature (per minute)	\$34.26
(C) Background .....	\$457.66
(D) Theme:	
(1) Single program or first series program .....	\$57.66
(2) Other series program .....	\$23.41

\* \* \* \* \*

Dated: September 20, 2007.

**James Scott Sledge,**

*Chief Copyright Royalty Judge.*

[FR Doc. E7–18939 Filed 9–25–07; 8:45 am]

**BILLING CODE 1410–72–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R06–OAR–2007–0886; FRL–8473–4]

**Approval and Promulgation of Implementation Plans; Arkansas; Clean Air Interstate Rule Nitrogen Oxides Ozone Season Trading Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Arkansas State Implementation Plan (SIP) submitted on August 10, 2007, enacted at Regulation 19—Arkansas Plan of Implementation for Air Pollution Control; Chapter 14, Sections 19.1401–19.1404; and Chapter 15, Section 19.1501. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO<sub>x</sub>) Ozone Season Trading Program, promulgated on May 12, 2005 and subsequently revised on April 28 and December 13, 2006. EPA is proposing to determine that the SIP revision fully implements the CAIR NO<sub>x</sub> ozone season requirements for Arkansas. Therefore, as a consequence of the SIP approval, EPA will also withdraw the CAIR Federal Implementation Plan (CAIR FIP) concerning NO<sub>x</sub> emissions for Arkansas. The CAIR FIPs for all States in the CAIR region were promulgated on April 28, 2006 and subsequently revised on December 13, 2006.

The intended effect of this action is to reduce NO<sub>x</sub> emissions from the State of Arkansas that are contributing to nonattainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard) in downwind states. This action is being taken under section 110 of the Federal Clean Air Act (the Act or CAA).

<sup>1</sup> A "public broadcasting entity" is defined as a "noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in paragraph (2) of subsection (c)" of section 118.

	2008–2012
(A) Feature .....	\$114.09