

amendment changed the time period to "not less than 48 hours before such fixation." The amendment to 37 CFR 201.22(e) similarly changes the period of time in which notice must be served from "at least ten days but not more than thirty days" to "not less than 48 hours".

The Office also corrects recently amended language in 37 CFR 201.5(b)(2)(iii)(A) by inserting the word "As" at the beginning of the sentence that comprises that paragraph. The word "As" was inadvertently omitted when the amendment was made. See 63 FR 59235 (November 3, 1998).

**List of Subjects in 37 CFR Part 201**

Copyright, General provisions.  
For the reasons stated above, the rules at 37 CFR part 201 are corrected and amended as follows:

**PART 201—GENERAL PROVISIONS**

1. The authority citation for Part 201 continues to read as follows:

**Authority:** 17 U.S.C. 702.

**§ 201.5 [Corrected]**

2. In § 201.5(b)(2)(iii)(A), add "As" before the phrase "an amplification,".

3. Section 201.22 is amended by revising paragraph (e)(1) to read as follows:

**§ 201.22 Advance notices of potential infringement of works consisting of sounds, images, or both.**

\* \* \* \* \*

(e) \* \* \*

(1) An Advance Notice of Potential Infringement shall be served on the person responsible for the potential infringement not less than 48 hours before the first fixation and simultaneous transmission of the work as provided by 17 U.S.C. 411(b)(1).

\* \* \* \* \*

Dated: November 20, 1998.

**Marybeth Peters,**

*Register of Copyrights.*

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**LIBRARY OF CONGRESS**

**Copyright Office**

[Docket No. 98-5 CARP]

**37 CFR Part 253**

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

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Office of the Library of Congress announces a cost of living adjustment of 1.5% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio, for the use of copyrighted published nondramatic musical compositions. The cost of living adjustment is based on the change in the Consumer Price Index from October, 1997, to October, 1998.

**EFFECTIVE DATE:** January 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, at Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** Section 118 of the Copyright Act, 17 U.S.C., 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 part 253 and are subject to adjustment at five-year intervals. 17 U.S.C. 118(c). The last proceeding to adjust the terms and rates for the section 118 license began in 1996. 61 FR 54458 (October 18, 1996).

On January 14, 1998, the Copyright Office announced 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, including the 1998 rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertoires by public broadcasting entities licensed to colleges and universities. 63 FR 2142 (January 14, 1998).

Pursuant to the regulations, on December 1 of each year "the Librarian of Congress shall publish a notice of the change in the cost of living 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." 37 CFR 253.10(a). The regulations also require that the Librarian publish a revised schedule of rates for the public performance of musical compositions in

the ASCAP, BMI, and SESAC repertoires by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. 37 CFR 253.10(b).

Accordingly, the Copyright Office of the Library of Congress is hereby announcing the change in the cost of living Index and performing the annual cost of living adjustment to the rates set out in § 253.5(c). 63 FR 2142 (January 14, 1998).

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 1997, to the most recent Index published before December 1, 1998, was 1.5% (1997's figure was 161.6; 1998's figure is 164.0, based on 1982-1984=100 as a reference base). Rounding off to the nearest dollar, the adjustment in the royalty rate for the use of musical compositions in the repertoire of ASCAP and BMI is \$225, each, and \$61 for the use of musical compositions in the repertoire of SESAC.

**List of Subjects in 37 CFR Part 253**

Copyright, Radio, Television.

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

1. The authority citation for Part 253 continues to read as follows:

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

2. 37 CFR 253.5 is amended by revising paragraphs (c)(1) through (c)(3).

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

\* \* \* \* \*

(c) \* \* \*

(1) For all such compositions in the repertoire of ASCAP, \$225 annually.

(2) For all such compositions in the repertoire of BMI, \$225 annually.

(3) For all such compositions in the repertoire of SESAC, \$61 annually.

\* \* \* \* \*

Dated: November 19, 1998.

**Marybeth Peters,**

*Register of Copyrights.*

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