living adjustment of 2.8% 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, 1994, to October, 1995.

**EFFECTIVE DATE:** January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or Tanya Sandros, Copyright Arbitration Royalty Panel Specialist, at Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On December 22, 1992, the Copyright Royalty Tribunal published in the Federal Register final rules governing the terms and rates of copyright royalty payments with respect to certain uses by noncommercial educational broadcast stations of published nondramatic musical works and published pictorial, graphic and sculptural works. 57 FR 60957 (December 22, 1992). The Copyright Royalty Tribunal determined in that proceeding that colleges, universities, and other noneducational institutions which are not affiliated with National Public Radio would pay a royalty rate adjusted each year according to changes in the Consumer Price Index for the use of copyrighted published nondramatic musical compositions. 37 CFR 304.10. Accordingly, the Tribunal published a cost of living adjustment on December 1, 1993. 58 FR 63294 (December 1, 1993).

On December 17, 1993, Congress abolished the Copyright Royalty Tribunal. Copyright Royalty Tribunal Reform Act of 1993 (CRT Reform Act), Public Law 103–198, 107 Stat. 2304. The CRT Reform Act directed the Library of Congress and the Copyright Office to adopt the rules and regulations of the CRT as found in 37 CFR Chapter III. 17 U.S.C. 802(d). The Office subsequently reissued the CRT regulations on December 22, 1993. 58 FR 67690 (December 22, 1993).

In a later action, former 37 CFR 304.10, which calls for the annual cost of living adjustments to rates paid by college and university radio stations, was renumbered 37 CFR 253.10. 59 FR 23964 (May 9, 1994).

Accordingly, the Copyright Office of the Library of Congress is hereby performing the annual cost of living adjustment pursuant to the 1992 public broadcasting rate adjustment proceeding.

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, 1994, to the most recent Index published before December 1, 1995, was 2.8% (1994's figure was 149.5; 1995's figure was 153.7, 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 repertory of ASCAP and BMI is \$211 each and \$49 for the use of musical compositions in the repertory 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. Section 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.

\* \* \* \* \* \* \* \*

(1) For all such compositions in the repertory of ASCAP, \$211 annually.

(2) For all such compositions in the repertory of BMI, \$211 annually.

(3) For all such compositions in the repertory of SESAC, \$49 annually.

Dated: November 21, 1995.

Marybeth Peters, Register of Copyrights.

[FR Doc. 95–29145 Filed 11–30–95; 8:45 am] BILLING CODE 1410–33–P

## 37 CFR Part 255

[Docket No. RM 95-4 CARP]

## Digital Performance Right in Sound Recordings

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

**ACTION:** Initiation of voluntary negotiation period and final rule.

**SUMMARY:** The Copyright Office is initiating the six month voluntary negotiation period for negotiating terms

and rates for a compulsory license for digital subscription transmissions, and adopting the rate for a compulsory license for digital phonorecord delivery as required by the Digital Performance Right in Sound Recordings Act of 1995. DATES: The effective date of this document is December 1, 1995. The initiation of the six month voluntary negotiation period is December 1, 1995. The effective date of the rate for digital phonorecord deliveries is February 1, 1996.

ADDRESSES: Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. If hand delivered, they should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–407, First and Independence Avenue, S.E. Washington, D.C. 20540. FOR FURTHER INFORMATION CONTACT:

FOR FURTHER INFORMATION CONTACT:
Marilyn Kretsinger, Acting General
Counsel, or William Roberts, Senior
Attorney, Copyright Arbitration Royalty
Panel, P.O. Box 70977, Southwest
Station, Washington, D.C. 20024, (202)
707–8380.

SUPPLEMENTARY INFORMATION: On November 1, 1995, the President signed into law the "Digital Performance Right in Sound Recordings Act of 1995" ("Digital Performance Act"), Pub. L. 104–39. The Digital Performance Act creates an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly the sound recordings by means of certain digital audio transmissions. See 17 U.S.C. 106(6).

Among the limitations on the performance of a sound recording publicly by means of a digital audio transmission is the creation of a new compulsory license for nonexempt subscription transmissions. The Digital Performance Act defines a "subscription transmission" as one that "is a transmission that is controlled and limited to particular recipients, and for which consideration is required to be paid or otherwise given by or on behalf of the recipient to receive the transmission or a package of transmissions including the transmission." 17 U.S.C. 114(j)(8). All nonexempt subscription transmissions are eligible for section 114 compulsory licensing provided they are not made by an "interactive service," which is defined in part as "one that enables a member of the public to receive, on request, a transmission of a particular sound recording chosen by or on behalf of the recipient." See 17 U.S.C. 114(j)(4).