

§ 254.3 Compulsory license fees for coin-operated phonorecord players.

(a) Commencing January 1, 1982, the annual compulsory license fee for a coin-operated phonorecord player shall be \$25.

(b) Commencing January 1, 1984, the annual compulsory license fee for a coin-operated phonorecord player shall be \$50.

(c) Commencing January 1, 1987, the annual compulsory license fee for a coin-operated phonorecord player shall be \$63.

(d) If performances are made available on a particular coin-operated phonorecord player for the first time after July 1 of any year, the compulsory license fee for the remainder of that year shall be one half of the annual rate of (a), (b), or (c) of this section, whichever is applicable.

(e) Commencing January 1, 1990, the annual compulsory license fee for a coin-operated phonorecord player is suspended through December 31, 1999, or until such earlier or later time as the March 1990 license agreement between AMOA and ASCAP/BMI/SESAC is terminated.

[51 FR 27537, Aug. 1, 1986, as amended at 55 FR 28197, July 10, 1990. Redesignated at 59 FR 23993, May 9, 1994]

PART 255—ADJUSTMENT OF ROYALTY PAYABLE UNDER COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS

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AUTHORITY: 17 U.S.C. 801(b)(1) and 803.

§ 255.1 General.

This part 255 adjusts the rates of royalties payable under the compulsory li-

cense for making and distributing phonorecords, including digital phonorecord deliveries, embodying nondramatic musical works, under 17 U.S.C. 115.

[60 FR 61657, Dec. 1, 1995]

§ 255.2 Royalty payable under compulsory license.

With respect to each work embodied in the phonorecord, the royalty payable shall be either four cents, or three-quarters of one cent per minute of playing time or fraction thereof, whichever amount is larger, for every phonorecord made and distributed on or after July 1, 1981, subject to adjustment pursuant to § 255.3.

[46 FR 891, Jan. 5, 1981, as amended at 46 FR 62268, Dec. 23, 1981. Redesignated and amended at 59 FR 23993, May 9, 1994]

§ 255.3 Adjustment of royalty rate.

(a) For every phonorecord made and distributed on or after January 1, 1983, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 4.25 cents, or 0.8 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (b) through (m) of this section.

(b) For every phonorecord made and distributed on or after July 1, 1984, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 4.5 cents, or 0.85 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (c) through (m) of this section.

(c) For every phonorecord made and distributed on or after January 1, 1986, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 5.0 cents, or 0.95 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (d) through (m) of this section.

(d) For every phonorecord made and distributed on or after January 1, 1988, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 5.25 cents, or 1.0

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cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (e) through (m) of this section.

(e) For every phonorecord made and distributed on or after January 1, 1990, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 5.7 cents, or 1.1 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (f) through (m) of this section.

(f) For every phonorecord made and distributed on or after January 1, 1992, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 6.25 cents, or 1.2 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (g) through (m) of this section.

(g) For every phonorecord made and distributed on or after January 1, 1994, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 6.6 cents, or 1.25 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (h) through (m) of this section.

(h) For every phonorecord made and distributed on or after January 1, 1996, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 6.95 cents, or 1.3 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (i) through (m) of this section.

(i) For every phonorecord made and distributed on or after January 1, 1998, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 7.1 cents, or 1.35 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (j) through (m) of this section.

(j) For every phonorecord made and distributed on or after January 1, 2000, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 7.55 cents, or 1.45 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (k) through (m) of this section.

(k) For every phonorecord made and distributed on or after January 1, 2002, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 8.0 cents, or 1.55 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (l) through (m) of this section.

(l) For every phonorecord made and distributed on or after January 1, 2004, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 8.5 cents, or 1.65 cents per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraph (m) of this section.

(m) For every phonorecord made and distributed on or after January 1, 2006, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 9.1 cents, or 1.75 cents per minute of playing time or fraction thereof, whichever amount is larger.

[60 FR 55459, Nov. 1, 1995, as amended at 63 FR 7289, Feb. 13, 1998]

§ 255.4 Definition of digital phonorecord delivery.

A “digital phonorecord delivery” is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. A digital phonorecord delivery does not result from a real-time, non-interactive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission