

a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient. 17 U.S.C. 115(d), 37 CFR 255.4.

*Why Has the Copyright Office Initiated This Rulemaking Proceeding?*

The DPRSRA directs the Librarian of Congress to establish regulations by which the entities availing themselves of this new license would keep records of their use, make the records available to the copyright owners, and give notice to the copyright owners of the use of their works. 17 U.S.C. 115(c)(3)(D). Specifically, sec. 115(c)(3)(D) requires "The Librarian of Congress (to) establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of use shall be kept and made available by persons making digital phonorecord deliveries."

*Are There Currently Regulations Governing the Use of the Section 115 Compulsory License?*

Sections 201.18 and 201.19 of title 37 of the Code of Federal Regulations, detail how potential compulsory licensees must file a notice of intention to obtain a compulsory license for making and distributing phonorecords of nondramatic musical works, how to make royalty payments to the copyright owners, and how to file statements of account in compliance with the terms of the sec. 115 license. Although these rules were promulgated before the passage of the DPRSRA to govern the making and distribution of physical phonorecords, these regulations apply equally to compulsory licensees who make digital phonorecord deliveries.

*Can the Regulations in 37 CFR 201.18 and 201.19 Be Amended To Accommodate the Delivery of Digital Phonorecords and Meet the Additional Notice and Recordkeeping Requirements in 17 U.S.C. 115(c)(3)(D)?*

Section 115(b)(1) of the Copyright Act, 17 United States Code, requires "any person who wishes to obtain a compulsory license under this section \* \* \* (to) serve notice of intention to do so on the Copyright Owner." The section also requires the Copyright Office to prescribe regulations specifying the form, content, and manner of service of the notice of intention. Section 201.18 of title 37 of the Federal Code of Regulations meets this requirement. Similarly, the regulations in § 201.19 address the requirement that each compulsory licensee file monthly and annual statements of account for each sec. 115

compulsory license as required under 17 U.S.C. 115(c)(5).

These rules, however, were conceived before the dawn of the digital age, and consequently, may not serve those compulsory licensees who intend to use the license to make digital phonorecord deliveries. For instance, 37 CFR 201.19 uses the terms, "voluntarily distributed," and "phonorecord reserve," which, on their face, do not seem to apply to the delivery of digital phonorecords. Nevertheless, their purpose is to provide notice to the copyright owner of the use of his or her work by a compulsory licensee and to ensure proper payment of royalties—the same purpose underlying the new notice and recordkeeping provision found in 17 U.S.C. 115(c)(3)(D).

Therefore, the Copyright Office is requesting that interested parties consider how to amend 37 CFR 201.18 and 201.19 in order to accommodate the delivery of digital phonorecords, and whether these rules, if amended to accommodate the delivery of digital phonorecords, would fulfill the notice and recordkeeping requirements specified in 17 U.S.C. 115(c)(3)(D), in addition to the requirements to file a notice of intention and monthly as well as annual statements of accounts. Furthermore, the Office seeks comment on the specific requirement in sec. 115(c)(3)(D) that the "persons making digital phonorecord deliveries" must keep and make available records of use. Interested parties who do not believe that §§ 201.18 and 201.19 can serve as an appropriate model for the requirements of sec. 115(c)(3)(D) are invited to propose alternative means of notice and recordkeeping.

Dated: September 1, 1998.

**David O. Carson,**

*General Counsel.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD003-3024b, MD025-3024b, MD066-3024b; FRL-6149-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Conditional Limited Approval of Major VOC Source RACT and Minor VOC Source Requirements and Withdrawal of Proposed Rule Pertaining to Major RACT and Minor VOC Source Requirements

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

**ACTION:** Proposed rule and withdrawal of notice of proposed rulemaking.

**SUMMARY:** EPA proposes conditional limited approval of the State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions pertain to Maryland's major source volatile organic compound (VOC) reasonably available control technology (RACT) regulation and minor VOC source requirements. In addition, EPA is withdrawing its March 1, 1996 proposed conditional approval of these SIP revisions, because the proposal does not comply with EPA's November 7, 1996 generic RACT policy. No public comments were received on that proposal. These actions are being taken in accordance with the SIP submittal and revision provisions of the Act. In the Final Rules section of this **Federal Register**, EPA is conditionally and limitedly approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views these as noncontroversial SIP revisions and anticipates no adverse comments. Detailed rationales for these actions are set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by October 5, 1998.

**ADDRESSES:** Written comments should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant

to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

**FOR FURTHER INFORMATION CONTACT:** Maria A. Pino, (215) 814-2181, at the EPA Region III address above, or by e-mail at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action of the same title, pertaining to Maryland's major VOC source RACT and minor VOC source requirements, located in the Rules and Regulations Section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: August 12, 1998.

**W. Michael McCabe,**

*Regional Administrator, Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 20-7-0084b; FRL-6138-9]

#### Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of particulate matter (PM) emissions from open burning and visible emissions within the Bay Area Air Quality Management District.

The intended effect of proposing approval of these rules is to regulate emissions of PM in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this rule, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant

adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

**DATES:** Comments must be received in writing by October 5, 1998.

**ADDRESSES:** Written comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

**FOR FURTHER INFORMATION CONTACT:**

Karen Irwin, (Rulemaking [AIR-4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1903).

**SUPPLEMENTARY INFORMATION:** This document concerns Bay Area Air Quality Management District Regulation 5, Open Burning, and Regulation 6, Visible Emissions, submitted to EPA on March 10, 1998 and May 13, 1991, respectively, by the California Air Resources Board. For further information, please see the information provided in the Direct Final action that is located in the Rules Section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 23, 1998.

**Clyde Morris,**

*Acting Regional Administrator, Region IX.*

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[MARAD 98-4395]

### 46 CFR Part 249

RIN No. 2133-AB 36

#### Approval of Underwriters for Marine Hull Insurance

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Advance Notice of Proposed Rulemaking; request for comments.

**SUMMARY:** The Maritime Administration (MARAD) is soliciting comments from interested persons concerning the need to amend the existing regulations governing the placement of marine hull insurance on subsidized and Title XI program vessels. The existing regulations were promulgated in 1988 and provided, among other things, the criteria and procedures for certain foreign underwriters to participate in the writing of hull insurance on MARAD program vessels.

**DATES:** Comments are requested by October 5, 1998.

**ADDRESSES:** Signed written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t. Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Edmond J. Fitzgerald, Director, Office of Subsidy and Insurance, Maritime Administration, Washington DC 20590. Telephone 202/366-2400.

**SUPPLEMENTARY INFORMATION:** The 1988 explanation of the final rulemaking (53 FR 23119) provided in part that:

Members of the Institute of London Underwriters (ILU) would remain eligible subject to prescribed trust fund and limitation on risk requirements. On the basis of a comment by one American carrier, the final rule specifically reserves MARAD's right to review this eligibility at any time.

It has come to MARAD's attention that the ILU and another London based insurance organization, the London International Insurance and Reinsurance Market Association (LIRMA) have voted to merge their two organizations in the near future. The new organization will be called the International Underwriters Association (IUA) of London. MARAD's