

Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at [http://www.irs.ustreas.gov/prod/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/comments.html).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Linda S. F. Marshall, (202) 622-6030 (not a toll-free call); concerning submissions, Michael Slaughter, (202) 622-7190 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 411(d)(6), to provide for changes that have been made necessary by the Taxpayer Relief Act of 1997 (TRA '97), Public Law 105-34, 111 Stat. 788 (1997). The temporary regulations change the existing regulations to conform with the TRA '97 rules regarding in-kind distribution requirements for certain employee stock ownership plans, and specify the time period during which certain plan amendments for which relief has been granted by TRA '97 may be made without violating the prohibition against plan amendments that reduce accrued benefits.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

##### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may 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 hearing will be published in the **Federal Register**.

**Drafting Information:** The principal author of these regulations is Linda S. F. Marshall, Office of the Associate Chief Counsel, Employee Benefits and Exempt Organizations. However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.411(d)-4 is amended by:

1. Revising paragraph (d)(1)(ii) of Q&A-2.
2. Adding Q&A-11.

The addition and revisions read as follows:

#### § 1.411(d)-4 Section 411(d)(6) protected benefits.

\* \* \* \* \*

Q-2 \* \* \*

(d)(1)(ii) [The text of proposed paragraph (d)(1)(ii) of Q&A-2 is the same as the text of § 1.411(d)-4T Q&A-2(d)(1)(ii) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

Q&A-11 [The text of proposed Q&A-11 is the same as the text of § 1.411(d)-4T Q&A-11 published elsewhere in this issue of the **Federal Register**.]

**Michael P. Dolan,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 98-23570 Filed 9-3-98; 8:45 am]

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#### LIBRARY OF CONGRESS

##### Copyright Office

##### 37 CFR Part 201

[Docket No. RM 98-7]

#### Notice and Recordkeeping for Making and Distributing Phonorecords

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

**ACTION:** Notice of Inquiry.

**SUMMARY:** The Copyright Office of the Library of Congress is requesting comments on the requirements by which copyright owners shall receive reasonable notice of the use of their works in the making and distribution of phonorecords. The Digital Performance Right in Sound Recordings Act of 1995 requires the Librarian of Congress to establish these regulations to ensure proper payment to copyright owners for the use of their works.

**DATES:** Comments are due October 19, 1998. Reply comments are due November 18, 1998.

**ADDRESSES:** If sent by mail, an original and ten copies of the comments, or the reply comments, should be addressed to: David Carson, General Counsel, Copyright GC/I&R, PO. Box 70400, Southwest Station, Washington, DC 20024. If hand delivered, an original and ten copies of the comments, or the reply comments, should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM-407, First and Independence Avenue, SE, Washington, DC 20599-6000.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707-8380 or Telefax (202) 707-8366.

#### SUPPLEMENTARY INFORMATION:

##### Background

*What Is the Digital Performance Right in Sound Recordings Act of 1995?*

On November 1, 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 (DPRSRA), Pub. L. 104-39 (1995). Among other things, this law clarified that the compulsory license for making and distributing phonorecords includes the distribution of a phonorecord of a nondramatic musical work by means of a digital phonorecord delivery. 17 U.S.C. 115(c)(3). 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. 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