Recent Filings

Although telephone entry into the cable business was under consideration at the FCC for some time before enactment of the Telecommunications Act, the Copyright Office has not considered such entry in terms of the cable compulsory license.[6] As noted above, through agency interpretation and legislative amendment, the section 111 license is available to traditional wired cable systems, wireless cable systems, and SMATV systems. The Office now must consider the eligibility of open video systems.

For the second accounting period of 1995, the Copyright Office has received statements of account and royalty filings from three systems identifying themselves as video dialtone operators. Interface Communications Group, Inc. identifies itself as a ''video dialtone system being conducted by U.S. West Communications, Inc. in Omaha, Nebraska.'' California Standard Television Corp. identifies itself as a video dialtone programmer whose ''physical facilities'' are owned by Pacific Bell. And Anchor Pacific Corp. also identifies itself as a video dialtone programmer whose ''physical facilities'' are owned by Pacific Bell.

These three filings represent the first claims of eligibility under 17 U.S.C. 111 by an open video system (formerly known as video dialtone). The Office expects that the number of filings for future accounting periods will increase, particularly in light of the Telecommunications Act. We, therefore, feel that now is an appropriate time to open a rulemaking proceeding to consider the eligibility issue.

Request for Comments

The threshold issue in this rulemaking proceeding is whether open video systems are cable systems within the meaning of 17 U.S.C. 111. The initial filings we have received appear to be from independent program providers leasing access on an open video system created by a telephone company. The Telecommunications Act now allows telephone companies to act as program providers as well. We solicit comment on whether both independent program providers and telephone companies should be eligible for section 111 and, if so, under what circumstances. We also seek comment as to whether a telephone company providing an open video system, and not itself engaged in retransmitting broadcast programming, is eligible for the passive carrier exemption of section 111(a)(3), and under what circumstances.

In addressing the threshold eligibility issue, we request that the commentators direct their responses to a consideration of 17 U.S.C. 111 as a whole, as opposed to solely the section 111(f) definition of a ''cable system.'' In the wireless/SMATV/satellite carrier rulemaking proceeding some commentators focused on the section 111(f) definition, and did not discuss how the rest of section 111 might or might not apply to a particular system. The Office stated in the 1992 final rules that section 111 must be interpreted as a whole in determining whether a particular retransmission provider is eligible for compulsory licensing. *See* 57 FR 3292 (1992) (''[E]ach part of a section should be construed in connection with every other part or section so as to produce a harmonious whole. Thus, it is not proper to confine interpretation to the one section to be construed,'' citing 2A Sutherland, *Stat. Const.* 46.05 (5th ed. 1992)). Consequently, we direct the commentators' attention to the particular applicability of all 17 U.S.C. 111 provisions, particularly the royalty calculation scheme. In particular, we are interested in how the 1976 distant signal carriage and syndicated exclusivity rules might or might not be applicable to open video systems. We are also interested in how an open video system would apply the 1976 must-carry rules, plus ADI, to determine local/distant status, particularly where there is not an established traditional wired cable system operating in the same service area as the open video system. And, we are interested in knowing how the ''contiguous communities'' provision of the section 111(f) cable definition might or might not apply to open video systems.

Aside from the threshold eligibility question, the Office directs the commentators to practical questions arising from the filing of statements of account and payment of royalty fees. Thus, we request commentators favoring 17 U.S.C. 111 eligibility of open video systems to detail what changes, if any, are required in the Copyright Office statement of account forms to accommodate open video system filings. We are especially interested in a detailed analysis of how an open video system would calculate its gross receipts, and what fees and charges would be included. We also seek comment as to whether the statement of account form should require all filers to identify what type of cable system they are (SMATV, wireless, traditional wired, etc.). Finally, we seek comment as to how current Office policies and practices, such as application of the 3.75% rate, non-allocation among subscriber groups, and the grandfathering of broadcast signals would apply.

In directing interested parties' attention to the above-identified issues, we do not wish to limit the scope or focus of the comments in any way. We therefore welcome all comments regarding application of 17 U.S.C. 111 to open video systems.

Dated: May 1, 1996.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 96–11226 Filed 5–3–96; 8:45 am]

BILLING CODE 1410–30–P

video programming provider making use of a common carrier video platform from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.''

[6] During the legislative process of the Telecommunications Act, proposals were considered to specifically address telephone company eligibility for 17 U.S.C. 111. Such amendments, however, were not included in the Telecommunications Act.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 162–2–0002b; FRL–5466–2]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District, Santa Barbara County Air Pollution Control District, South Coast 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 volatile organic compound (VOC) emissions from aerospace assembly and component manufacturing operations, motor vehicle and mobile equipment coating operations, crude oil production and separation, and storage of reactive organic compound liquids (ROC).

The intended effect of proposing approval of these rules is to regulate emissions of VOCs 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 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. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by June 5, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics 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:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street SW., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 92123–1095.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite #200, Fresno, CA 93721.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93117.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

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

FOR FURTHER INFORMATION CONTACT: Helen Liu, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION: This document concerns the following rules San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4602—Motor Vehicle and Mobile Equipment Coating Operations, Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 325—Crude Oil Production and Separation, SBCAPCD Rule 326—Storage of Reactive Organic Compound Liquids, and South Coast Air Quality Management District (SCAQMD) Rule 1124—Aerospace Assembly and Component Manufacturing Operations. California Air Resources Board submitted the rules to EPA on the following dates: October 13, 1995, March 29, 1994, March 29, 1994, and February 24, 1995, respectively. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 18, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–11206 Filed 5–3–96; 8:45 am]

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40 CFR Part 52

[OH93–1–7290b; FRL–5467–4]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the Particulate Matter contingency measures State Implementation Plan (SIP) revisions submitted by the State of Ohio on July 17, 1995. This submittal addresses the Federal Clean Air Act requirement to submit contingency measures for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM) for the areas designated as nonattainment for the PM National Ambient Air Quality Standards (NAAQS). Contingency measures are emission reductions which are to be implemented, with no further action, in the event that an area fails to meet air quality standards. In the final rules section of this Federal Register, the EPA is approving this action as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed 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 the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before June 5, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: April 19, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–11201 Filed 5–03–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[UT18–1–6778b; FRL–5500–2]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Emission Statement Regulation, Ozone Nonattainment Area Designation, Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of the revision to the Utah State Implementation Plan (SIP) that was submitted by the Governor of Utah on November 12, 1993, for the purpose of implementing an emission statement program for stationary sources within the Salt Lake and Davis Counties (SLDC) ozone nonattainment area. The emission statement inventory regulation, Utah Air