

Dated: February 26, 2003.

**Evan Q. Kahler,**

*Commander, U.S. Coast Guard, Acting  
Captain of the Port, Baltimore, Maryland.*  
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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2002-4B]

### Notice of Public Hearings: Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

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

**ACTION:** Notice of public hearings.

**SUMMARY:** The Copyright Office of the Library of Congress will be holding public hearings on the possible exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works. In accordance with the Copyright Act, as amended by the Digital Millennium Copyright Act, the Office is conducting its triennial rulemaking proceeding to determine whether there are particular "classes of works" as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses if they are prohibited from circumventing such technological measures.

**DATES:** Public hearings will be held in Washington, DC on Friday, April 11, 2003, Tuesday, April 15, 2003, Wednesday, April 30, 2003 and Friday, May 2, 2003, beginning at 9:30 a.m. Public hearings will also be held in California in May at a time and location to be announced later. Requests to testify must be received by 5 p.m. E.S.T. on April 1, 2003. See **SUPPLEMENTARY INFORMATION** for additional information on other requirements.

**ADDRESSES:** The Washington, DC round of public hearings will be held as follows: April 11 in the Mumford, Room, LM-649, of the James Madison Building of the Library of Congress, 101 Independence Ave, SE., Washington, DC. April 15 in the West Dining Room, LM-621, of the James Madison Memorial Building of the Library of Congress, 101 Independence Ave, SE., Washington, DC. April 30 and May 2 at the Postal Rate Commission, 1333 H Street, NW., Third Floor, Washington, DC. Additional public hearings will be held in California at a time and location

to be subsequently announced. See **SUPPLEMENTARY INFORMATION** for additional address information and other requirements.

**FOR FURTHER INFORMATION CONTACT:** Rob Kasunic, Senior Attorney, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707-8380; fax (202) 707-8366. Requests to testify must be sent by email to [1201@loc.gov](mailto:1201@loc.gov). Email inquiries regarding the hearings may be sent to [rkas@loc.gov](mailto:rkas@loc.gov).

**SUPPLEMENTARY INFORMATION:** On October 15, 2002, the Copyright Office published a Notice of Inquiry seeking comments in connection with a rulemaking pursuant to section 1201(a)(1) of the Copyright Act, 17 U.S.C. 1201(a)(1), which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumventing a technological measure that controls access to a copyrighted work. 67 FR 63578 (October 15, 2002). For a more complete statement of the background and purpose of the rulemaking, please see the Notice of Inquiry and the full record of the previous rulemaking proceeding available on the Copyright Office's Web site at: <http://www.copyright.gov/1201/>.

The 51 written comments proposing classes of works to be exempted and the 338 reply comments have been posted on the Office's Web site; see <http://www.copyright.gov/1201/>.

The Office will be conducting public hearings in Washington, DC in April and May and in California in May to hear testimony relating to the rulemaking. Interested parties are invited to submit requests to testify at one of these hearings. The dates for the hearings in Washington, DC are April 11, 15 and 30, and May 2. Depending on the number of requests to testify that we receive, it may not be necessary to conduct hearings on all four of these days. The date or dates for the hearings in California will be announced later.

#### *Requirements for persons desiring to testify:*

A request to testify must be submitted to the Copyright Office. All requests to testify must clearly identify:

- The name of the person desiring to testify,
- The organization or organizations represented, if any,
- Contact information (address, telephone, and email),
- The class of work to which your testimony is responsive (if you wish to testify on more than one proposed class

of work, please state your order of preference),

- A brief summary of your proposed testimony,
- A description of any audiovisual material or demonstrative evidence, if any, that you intend to present,
- The location of the hearing at which you wish to testify (Washington, DC or California).
- Preferences as to dates on which you wish to testify. *Note:* Because the agenda will be organized based on subject matter, we cannot guarantee that we can accommodate requests to testify on particular dates.

All persons who submit a timely request to testify will receive confirmation by email or telephone by April 4. The Copyright Office will notify all witnesses of the date and expected time of their appearance, and the time allocated for their testimony.

#### *Addresses for requests to testify:*

All requests to testify must be sent by email to [1201@loc.gov](mailto:1201@loc.gov) and must be received by 5 E.S.T. on April 1, 2003. Persons who are unable to send requests by email should contact Rob Kasunic, Senior Attorney, at (202) 707-8380 to make alternative arrangements for submission of their requests to testify.

#### *Form and limits on testimony at public hearings:*

There will be time limits on the testimony allowed for persons testifying that will be established after receiving all requests to testify. In the written comment period, the Office received nearly 400 written comments. Given the time constraints, only a fraction of that number could possibly testify at the hearings. A timely request to testify does not guarantee an opportunity to testify at these hearings. The Copyright Office encourages parties with similar interests to select common representatives to testify on behalf of a particular position.

The Copyright Office stresses that factual arguments are at least as important as legal arguments and encourages persons who wish to testify to provide demonstrative evidence to supplement their testimony. While testimony from attorneys who can articulate legal arguments in support of or opposition to a proposed exempted class of works is useful, testimony from witnesses who can explain and demonstrate the facts is also solicited.

An LCD projector and screen will be available in the hearing rooms. An overhead projector may be made available if arrangements are requested in advance. Other electronic or audiovisual equipment necessary for a presentation should be brought by the person testifying. Persons intending to

bring such equipment into the Library of Congress, *e.g.*, laptops, slide projectors, etc., will need to arrive early in order to register the equipment with the Library Police.

The Office intends to organize individual sessions of the hearings around particular or related classes of works proposed for exemption. If a request to testify involves more than one proposed exemption or related exemption, please specify, in order of preference, the proposed exemptions on which you would prefer to testify.

Following receipt of the requests to testify, the Copyright Office will prepare an agenda of the hearings which will be posted on the Copyright Office Web site at: <http://www.copyright.gov/1201/> and sent to all persons who have submitted requests to testify. To facilitate this process, it is essential that all of the required information listed above be included in a request to testify.

Dated: March 17, 2003.

**Marybeth Peters,**

*Register of Copyrights.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[CA-282-0389; FRL-7470-5]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; 1-Hour Ozone Standard for San Diego, California

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to redesignate the San Diego County area to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). EPA is also proposing to approve a 1-hour ozone maintenance plan and motor vehicle emissions budgets as revisions to the San Diego portion of the California State Implementation Plan (SIP).

**DATES:** Comments on this proposed action must be received by April 21, 2003.

**ADDRESSES:** Please address your comments to: John J. Kelly, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the docket for this action at EPA's Region 9 office during normal business hours. You can

also inspect copies of the submitted SIP revision at the following locations:

California Air Resources Board, 1001 I Street, Sacramento, CA 95814; San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.

**FOR FURTHER INFORMATION CONTACT:** John J. Kelly, EPA Region 9, (415) 947-4151, or [kelly.johnj@epa.gov](mailto:kelly.johnj@epa.gov)

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us," and "our" refer to EPA.

#### I. Background

##### A. San Diego Designation, Classification, SIPs, and Attainment

When the Clean Air Act (CAA) was amended in 1990, each area of the country that was designated nonattainment for the 1-hour ozone NAAQS, including the San Diego area, was classified by operation of law as marginal, moderate, serious, severe, or extreme depending on the severity of the area's air quality problem. The San Diego County nonattainment area ("San Diego") was designated under CAA section 107 as nonattainment, and initially classified under CAA section 181 as severe for the 1-hour ozone NAAQS. See 40 CFR 81.305 and 56 FR 56694 (November 6, 1991). The area was reclassified as serious after we determined that the ozone design value used in the original classification was incorrect. 60 FR 3771 (January 19, 1995).

The San Diego County Air Pollution Control District (SDCAPCD) adopted a serious area plan, demonstrating attainment by the applicable deadline of November 15, 1999. The California Air Resources Board (CARB) timely submitted the plan in 1994, and we approved the plan on January 8, 1997 (62 FR 1150).

Although the San Diego area did not attain the standard by the November 15, 1999 deadline, the area did qualify to have that deadline extended, since the area had complied with all requirements and commitments in the SIP and recorded no more than 1 exceedance of the NAAQS in 1999. For areas meeting these provisions, CAA section 181(a)(5) allows us to grant up to two 1-year extensions. On October 11, 2000 (65 FR 65025), we granted the San Diego area a 1-year attainment date extension to November 15, 2000, and on August 6, 2001 (66 FR 40908), we granted the area a second 1-year extension to November 15, 2001, since the area again had no more than 1 exceedance in the previous year. On October 23, 2002 (67 FR 65043), we issued a finding under CAA section 181(b)(2)(A) that the San Diego

area had attained the 1-hour ozone NAAQS by the applicable attainment deadline of November 15, 2001.

On December 11, 2002, SDCAPCD adopted the "Ozone Redesignation Request and Maintenance Plan for San Diego County" ("San Diego Maintenance Plan"). On December 20, 2002, CARB submitted the San Diego Maintenance Plan, with a request that we approve the plan as meeting the CAA maintenance plan provisions and redesignate San Diego to attainment for the 1-hour ozone NAAQS (letter from Michael P. Kenny, CARB Executive Officer, to Wayne Nastri, Regional Administrator, EPA Region 9).

On December 20, 2002, CARB also transmitted for approval the State's latest update to the California-specific motor vehicle emissions model, known as EMFAC2002 (letter from Michael P. Kenny, CARB Executive Officer, to Jack Broadbent, Director, Air Division, EPA Region 9).<sup>1</sup> EMFAC2002 is used to prepare the onroad emissions inventories in the plan. In early 2003, we expect to issue our conclusions regarding whether or not the EMFAC2002 emission factor model is acceptable and would thus be required to be used in the future for purposes of SIP development and transportation conformity. CARB provided us with information about the EMFAC2002 revisions as they were being prepared and finalized, and we have preliminarily concluded for purposes of this proposed action that the emission factor element of EMFAC2002 is an improved and acceptable methodology for determining motor vehicle emissions. Assuming that we find in a separate action that the updated emission factor model is acceptable, we propose to approve fully the emissions inventory, maintenance demonstration, motor vehicle emissions budgets, and redesignation request, as discussed below. If we fail to find that the emission factor model is acceptable, we will not finalize these actions.

##### B. Clean Air Act Provisions for Maintenance Plans

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must provide for

<sup>1</sup> The EMFAC model is the California equivalent to EPA's national motor vehicle emissions model, the most recent version of which is MOBILE6. EMFAC2002 reflects new vehicle test data and quantification techniques to update and enhance the information in the most recent prior versions. For example, EMFAC2002 accounts for heavy-duty vehicle emissions during extended idling and during off-cycle operation.