

final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.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 document should do so at this time.

**DATES:** To be considered, comments must be received by April 7, 1995.

**ADDRESSES:** Written comments on this action should be addressed to Kay T. Prince, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency,  
Region 4 Air Programs Branch, 345  
Courtland Street, NE., Atlanta,  
Georgia 30365.

South Carolina Department of Health  
and Environmental Control, 2600 Bull  
Street, Columbia, South Carolina  
29201.

**FOR FURTHER INFORMATION CONTACT:**  
Kay T. Prince, Regulatory Planning and  
Development Section, Air Programs  
Branch, Air, Pesticides & Toxics  
Management Division, Region 4  
Environmental Protection Agency, 345  
Courtland Street, NE., Atlanta, Georgia  
30365. The telephone number is 404/  
347-3555 x4221. Reference file SC19-1-  
5031.

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

Dated: January 26, 1995.

**Patrick M. Tobin,**

*Acting Regional Administrator.*

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#### 40 CFR Part 63

[AD-FRL-5168-3]

RIN 2060-AD02

#### Federal Standards for Marine Tank Vessel Loading and Unloading Operations and National Emission Standards for Hazardous Air Pollutants for Marine Vessel Loading and Unloading Operations

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

**ACTION:** Reopening of public comment  
period.

**SUMMARY:** On May 13, 1994 (59 FR 25004), the EPA proposed standards to regulate the emissions of volatile organic compounds (VOC) and hazardous air pollutants (HAP) from new and existing marine tank vessel loading and unloading operations which are part of major sources under section 112 of the Clean Air Act (CAA). The initial public comment period closed on July 18, 1994. With this document, the EPA reopens the comment period on the marine tank vessel loading and unloading operations to request comment on extending the proposed compliance dates of 2 years and 3 years for sections 183(f) and 112 of the CAA respectively.

**DATES:** Comments must be received on or before April 7, 1995.

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate if possible) to the EPA's Air and Radiation Docket and Information Center (6102), ATTN: Docket Number A-90-44, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

*Dockets.* Docket Number A-90-44 contains supporting information used in developing the proposed provisions. This docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, 410 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:**  
Contact Mr. David Markwordt, Policy,  
Planning and Standards Group,  
Emission Standards Division (MD-13),  
Office of Air Quality Planning and  
Standards, U. S. Environmental  
Protection Agency, Research Triangle  
Park, North Carolina 27711, telephone  
number (919) 541-0837.

**SUPPLEMENTARY INFORMATION:** On May 13, 1994 (59 FR 25004), the EPA proposed standards to regulate the emissions of VOC and HAP from new and existing marine tank vessel loading and unloading operations which are part of major sources under sections 183(f) and 112 of the CAA. The comment period on the proposed rule ended on July 18, 1994. This notice reopens the public comment period for the proposed rule. However, only comments limited to the subject described below will be considered at this time.

The docket for the proposed rule for marine vessel loading and unloading operations received many comments concerning the 2 and 3 year compliance

dates for section 183(f) and 112 of the CAA respectively (see Docket Number A-90-44 items IV-D6, 7, 8, 23, 24, 28, 30, 31, 32, 34, 36, 39, 41, 42, 47, 50, 51, 55, 56, 58, 68, 71, 75, 78, 86, and 103).

These comments provide information that, according to the commenters, show that the deadlines provided in the proposed rule are not practicable. The commenters also suggest that there are provisions in sections 112 and 183(f) which would allow the Agency to revise its deadline for compliance.

#### Section 183(f)

The American Petroleum Institute (API) suggests that, as the controls required under section 183(f) must be "reasonably available," the Agency cannot require implementation of controls within 2 years if such controls can not reasonably be completed in the 2-year time frame. API suggests that EPA should delay the compliance date to a date that is "reasonable." API also suggests a possible phase-in of the compliance date (see Docket Number A-90-44 item IV-D-103).

In addition, API notes that section 183(f)(1)(B) provides that a regulation issued pursuant to Section 183(f)

shall take effect after such period as the Administrator finds \* \* \* necessary to permit the development and application of the requisite technology, \* \* \* except that the effective date shall not be more than 2 years after promulgation of such regulation.

According to API, this requirement that the "effective date" be no more than 2 years from promulgation does not necessarily mean that facilities necessarily must complete installation of control equipment within that period. Indeed, API notes that section 112(d) regulations are effective upon promulgation, but the Agency is free to establish a compliance date for existing sources of up to 3 years from the effective date.

According to API, the use of the term "reasonably available control technology" and imprecision of the term "effective date" in section 183(f)(1)(B), as well as the provision's directive that the Agency consider the "development and application of the requisite technology," would appear to provide EPA with the latitude to fashion a solution similar to the one the Agency arrived at arising under section 211. In a rulemaking pursuant to section 211(b), the Agency prescribed testing requirements for fuels and fuel additives. The Agency initially took the position that all testing had to have been completed and submitted to the Agency within 3 years of the Section 211 rule's promulgation date. API presented evidence demonstrating that it would be

impossible for the industry to meet this deadline primarily because "the number of laboratory facilities currently available to conduct the required emission-based toxicological tests is very limited." 59 FR 33046 (June 27, 1994). The Agency added:

[While EPA believes that some groups could complete the testing required by the rule in 3 years, it is likely that not all of the fuels and fuel additives to be tested could complete the requirements in the 3-year time frame.

*Id.* The Agency resolved the issue in the final rule by requiring complete "Tier 2" test data submittal within 3 years of the rule's promulgation and a literature search, characterization of emissions, exposure analysis, and evidence of a contractual obligation, "a qualified laboratory to conduct the required tests," and submittal of complete Tier 2 test data within 6 years of promulgation. 59 FR 33046.

For the section 211(b) rulemaking, the Agency interpreted the term, "requisite information" as "either data required by Tier 1 and 2 or data required by Tier 1 and commitment to conduct Tier 2 testing." 59 FR 33047. Similarly, according to API, the 2-year "effective date" of Section 183(f) could be construed to require that facilities subject to the control requirements have contracts in place for the installation of equipment within 2 years of the rule's promulgation. Installation of equipment could be required by a reasonable date after the 2 year deadline. (API suggests 3 years after that date.)

### Section 112

One option for extending the compliance date for the Section 112 rule is to utilize the authority of Section 112(i)(3)(B), which authorizes a 1-year extension "if \* \* \* necessary for the installation of controls." As is noted in API's July 18, 1994 comments (see Docket Number A-90-44 item IV-D34), the Agency could use the precedent of the Benzene Waste Operations NESHAP to announce, in the final rule, that all facilities subject to control requirements will be afforded 4 years from the promulgation date to achieve compliance. 55 FR 8332 (March 7, 1990). According to API, because of the very large number of facilities that are likely to need extensions, an EPA requirement for individual applications—and processing of those applications—would be unnecessarily burdensome on both the facilities and the permitting authorities.

Another option for extending the compliance date for the section 112 rule, according to API, is based on the Agency's experience with the section

211 testing rule described above. The Agency could define "compliance" as having contracts in place for the installation of equipment.

Finally, the Agency has concluded, in the final hazardous organic NESHAP (HON) rule, that phasing in compliance with a section 112(d) regulation is warranted in circumstances where requiring simultaneous compliance by a large number of facilities would strain existing contractors. 59 FR 19402 (April 22, 1994). In the HON rule, the Agency allowed a phasing-in of the compliance date for equipment leaks for existing sources. 40 CFR 63.100(k). Process units subject to the rule were divided into five groups; Group V's compliance date is 1 year later than Group I's. Similarly, the Agency has proposed to allow phasing in of the compliance date for equipment leaks in thirds, over an 18-month period in the Refinery MACT rule. 59 FR 36130 (June 30, 1994).

The Agency could use a similar approach in the final marine loading and unloading rules. API suggested that one of several possible phase-in approaches would be to require compliance in the following order:

- (1) facilities subject to the section 183(f) rule that are located in ozone nonattainment areas;
- (2) facilities subject to the section 183(f) rule that are located in ozone attainment areas;
- (3) facilities subject to the section 112 rule only.

The Agency requests comments on whether the rule can legally go beyond the 2 and 3 year compliance dates. And if extension of compliance dates beyond the 2 and 3 year requirements is legal, should the Agency extend the compliance schedules?

### Administrative Requirements

#### A. Docket

Address: Docket. Docket No. A-90-44, containing supporting information used in developing the notice, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Agency's Air Docket, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

#### B. Executive Order 12866 Review

The Agency has determined that this action is not "significant" under the terms of the Executive Order 12866 and is therefore not subject to OMB review.

#### C. Paperwork Reduction Act

This action does not contain any information collection requirements

subject to OMB review under the Paperwork Reduction Act, 55 U.S.C. 3501 *et seq.*

#### D. Regulatory Flexibility Act Compliance

Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Intergovernmental relations.

Dated: March 1, 1995.

**Mary D. Nichols.**

*Assistant Administrator.*

[FR Doc. 95-5658 Filed 3-7-95; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 95-30, RM-8599]

#### Radio Broadcasting Services; Harwood, North Dakota

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Conway Broadcasting seeking the allotment of Channel 264C3 to Harwood, ND, as the community's first local aural broadcast service. Channel 264C3 can be allotted to Harwood in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.7 kilometers (9.1 miles) southwest, at coordinates 47-05-00 North Latitude; 97-00-00 West Longitude, to avoid a short-spacing to Station KIKV-FM, Channel 264C1, Alexandria, Minnesota. Canadian concurrence in this allotment is required since Harwood is located within 320 kilometers of the U.S.-Canadian border.

**DATES:** Comments must be filed on or before April 24, 1995, and reply comments on or before May 10, 1995.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lars Conway, Conway Broadcasting, 4415 Fremont Avenue, South, Minneapolis, MN 55409 (Petitioner).