* * * the Commission has continued to adhere to its interpretation of the statute even as the categories of maximum lawful prices waned pursuant to the NGPA." [7] However, the Commission finding in that order was for the narrow purpose of interpreting section 201 of the Energy Policy Act regarding the importation of natural gas and LNG that is subject to a free trade agreement. Moreover, Congress itself, in that section, intended to define all such importations as NGPA first sales. Thus it appears the Commission's reliance on the § 270.203(c) definition was unnecessary to the results reached in that order.

The Commission concludes that Order No. 567 properly removed § 270.203(c) from the Commission's regulations.

B. APA

Rehearing applicants contend that the Commission failed to satisfy the requirements of the APA by removing § 270.203(c) without notice and comment. Under section 553(b)(B) of the APA, an agency is not required to issue a notice of proposed rulemaking and provide for comments if it has good cause to find that the public notice is impracticable, unnecessary, or contrary to the public interest. [8] In particular, a rule falls within the "unnecessary" category if it can be classified as either minor or emergency in character. [9]

In the July 28, 1994 final rule, the Commission merely updated its regulations to remove regulations rendered obsolete by the Wellhead Decontrol Act. Ordinarily the Commission may update its regulations in that manner without notice and comment, and it has done so in the past.[10] And in this case, the appropriateness of the removal of the regulations other than § 270.203(c) without notice is undisputed. However, in retrospect, the Commission recognizes that it might have been better to provide public notice and an opportunity to comment before the removal of § 270.203(c). However, in the particular circumstances of this case, the Commission does not believe that any party has been significantly harmed.

First, the issue here is a relatively narrow one of whether the anti-circumvention rule adopted in § 270.203(c) should be eliminated, in light of the fact that the Wellhead Decontrol Act has removed the maximum lawful prices whose circumvention § 270.203(c) was designed to prevent. While the parties had no opportunity to comment on that issue before Order No. 567 was issued, the parties have now had such an opportunity in their requests for rehearing. Eight parties have taken advantage of the opportunity to comment on rehearing, and discussed the issue in detail.[11] Of course an opportunity to comment on rehearing does not cure the lack of prior notice in all cases. Here, however, given the relatively narrow issue involved, it does not appear that providing any further opportunity to comment, at this stage, would serve any useful purpose.

This is particularly so, since, at present, there is no practical difference in treatment between operating under the blanket marketer sales certificates and treatment as a non-regulated first seller. Therefore, the rulemaking has had no substantive impact on the rights of the parties. Moreover, the blanket certificate having been issued by rule, any change in that certificate would entail a new rulemaking proceeding in which parties would have a full opportunity for notice and comment.

The cases relied on in the requests for rehearing do not compel a different determination in this case. In *Mobil Oil Corp.* v. *DOE*,[12] the Federal Energy Administration found that an emergency existed and the court found that the threat to the public would be sufficiently dire for good cause to be found to not provide notice and comment. But the APA does not require an emergency, and provides an exception where there is no substantive effect, as in *National Helium, supra*. In two of the cases, there was no question that notice was required.[13] The only issue was whether the notice and opportunity to comment that was provided was sufficient to give the public fair notice of the final form of the rule. Here, in the particular circumstances of this case, the rehearing requests have provided a sufficient opportunity. In *Texaco Inc.* v. *FPC*,[14] the Federal Power Commission (FPC) found that the effect of the rule was not minor, since the industry wide cost would be many millions of dollars.

Again, there is no substantive effect to the elimination of § 270.203(c). In *Bushman* v. *Schweiker*,[15] unlike this case, the agency never made a statement as to why notice was unnecessary. Therefore, this case can also be distinguished from the case before us.

The Commission orders:

The requests for rehearing are denied as discussed in the body of this order.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26745 Filed 10–27–94; 8:45 am]

BILLING CODE 6717–01–P

[7] Id. at 62,586.

[8] 5 U.S.C. 553(b)(B).

[9] Texaco Inc. v. FPC 412 F.2d 740 (3d Cir. 1969).

[10] *See* Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction over Natural Gas, 57 FR 21891 (May 26, 1992), III FERC Stats. & Regs. Preambles ¶ 30,945 (May 1, 1992).

[11] *See* Union Pacific Resources Co. v. FERC, 936 F.2d 1310 (D.C. Cir. 1991).

[12] 728 F.2d 1477 (Emerg. Ct. App. 1983), *cert. denied*, 467 U.S. 1255.

[13] American Standards Inc. v. U.S., 602 F.2d 256 (Ct. Cl. 1979) and Consumer Energy Council v. FERC, 673 F.2d 425 (D.C. Cir. 1982), *aff'd*, 463 U.S. 1216 (1983).

[14] 412 F.2d 740 (3d Cir. 1969).

[15] 676 F.2d 352 (9th Cir. 1982).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 90F–0036]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of September 6, 1994 (59 FR 45972). The document amended the food additive regulations to provide for the safe use of boric acid as a stabilizer in ethylene-vinyl acetate-vinyl alcohol copolymers intended for use in contact with food. The document was published with an incorrect Chemical Abstract Service Registry (CAS Reg.) number. This document corrects that error.

EFFECTIVE DATE: September 6, 1994.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

In FR Doc. 94–21836, appearing on page 45972 in the **Federal Register** of Tuesday, September 6, 1994, the following correction is made:

§ 178.2010 [Corrected]

1. On page 45973, in the third column, in § 178.2010 *Antioxideants and/or stabilizers for polymers*, in the table in paragraph (b), under the heading "Substances," the entry for "Boric acid (CAS Reg. No. 10043–35)"

is corrected to read "Boric acid (CAS Reg. No. 10043-35-3)."

Dated: October 24, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94-26730 Filed 10-27-94; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-5099-4]

RIN 2060-AC19

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Partial Stay and Reconsideration.

SUMMARY: Today's action announces a partial 3-month stay and reconsideration of certain national emission standards for hazardous air pollutants for certain sources. The effectiveness of provisions of the "National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks" 59 FR 19402 (April 22, 1994) and 59 FR 29196 (June 6, 1994) (collectively known as the "hazardous organic NESHAP" or the "HON"), for compressors and for surge control vessels and bottoms receivers is stayed for 3 months pending reconsideration. The EPA is issuing this stay pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which provides the Administrator authority to stay the effectiveness of a rule during reconsideration.

Elsewhere in the Proposed Rules Section of today's **Federal Register** the EPA proposes (1) to defer compliance with the HON equipment leak provisions establishing standards for compressors and for surge control vessels and bottoms receivers, and (2) to extend the compliance date for sources affected by today's stay, for as long as is necessary to complete the rulemaking granting this deferral.

EFFECTIVE DATE: October 28, 1994. This stay affects only those sources that had been required to comply with 40 CFR 63.164 and 63.170 as of October 24, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Meyer at (919) 541-5254, Emission Standards Division (MD-13), US Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Background

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the EPA promulgated in the **Federal Register** national emission standards for hazardous air pollutants ("NESHAP") for the synthetic organic chemical manufacturing industry ("SOCMI"), and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H, and I in 40 CFR part 63, and are commonly referred to as the HON. Subpart H establishes standards for equipment leaks, including standards for compressors (40 CFR 63.164) and for surge control vessels and bottoms receivers (40 CFR 63.170). The final rule required existing sources to comply with subpart H beginning October 24, 1994, for some groups of SOCMI processes and for processes subject to subpart I (*see* 40 CFR 63.100(k)(3)(i) and 63.190(e)(2)).

A petition for reconsideration has been submitted to the EPA requesting the HON be revised in order for sources to have additional time to comply with the equipment leak provisions applicable to compressors and to surge control vessels and bottoms receivers. The petition contains new information demonstrating that compliance by October 24, 1994, with the standards applicable to compressors and to surge control vessels and bottoms receivers, is not possible because at many facilities major equipment modifications or replacements are necessary in order to comply with the standards. This new information, which the EPA did not have prior to the promulgation of the HON, is described more fully in the notice contained in the Proposed Rules section of today's **Federal Register** that proposes to defer compliance with the equipment leak provisions of the HON that are applicable to compressors and to surge control vessels and bottoms receivers. For these reasons, the EPA is staying the effectiveness of the provisions of the HON applicable to leaks from compressors and from surge control vessels and bottoms receivers for 3 months in order to respond to the petition for reconsideration and revise the rule as necessary to resolve this issue.

This stay affects only those sources that had been required to comply with 40 CFR 63.164 and 63.170 as of October 24, 1994 (*see* 40 CFR 63.100(k)(3)(i) and 63.190(e)(2)). It does not affect those sources required to comply as of January 23, 1995, or later (*see* 40 CFR 63.100(k)(3)(ii) through (k)(3)(v). In the proposal contained in today's **Federal Register**, however, EPA is proposing a compliance extension for the sources required to comply as of January 23, 1995, or later, as well as the sources required to comply as of October 24, 1994. Accordingly, today's stay does not affect all sources with compressors or surge control vessels and bottoms receivers.

II. Issuance of Stay

The EPA hereby issues a 3-month administrative stay of the effectiveness of the HON equipment leak provisions applicable to compressors and to surge control vessels and bottoms receivers for sources required to comply beginning on October 24, 1994. The EPA will reconsider the compliance dates in the rule and, following the notice and comment procedures of section 307(d) of the Clean Air Act, will take appropriate action.

III. Authority for Stay and Reconsideration

The administrative stay and reconsideration announced by this notice are being undertaken pursuant to section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. 7607(d)(7)(B). That provision authorizes the Administrator to stay the effectiveness of a rule for up to 3 months in order to consider a request for reconsideration. Reconsideration is appropriate if the grounds for an objection arose after the period for public comment and if the objection is of central relevance to the outcome of the rule.

The grounds for reconsideration of this rule arose after the public comment period. The problems attendant to requiring compliance with the equipment leak provisions applicable to compressors and to surge control vessels and bottoms receivers only became apparent after the close of comment on the rule. Therefore, the EPA is staying the effectiveness of the rule for 3 months in order to allow time to reconsider this issue.

IV. Proposed Compliance Extension

The EPA may not be able to complete the reconsideration (including any appropriate regulatory action) of the rule stayed by this notice within the 3-month period expressly provided in section 307(d)(7)(B). If the EPA does not complete the reconsideration in this timeframe, then it will be necessary to temporarily extend the applicable compliance dates. In the Proposed Rule Section of today's **Federal Register**, the EPA proposes a temporary extension of the compliance dates beyond 3 months if necessary in order to complete reconsideration and revision of the rules in question.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small business entities.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 24, 1994.

Carol M. Browner,
Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 63, subparts F, H, and I are being amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

2. Section 63.100 is amended by adding paragraph (o) to read as follows:

§ 63.100 Applicability and designation of source.

* * * * *

(o) *Sections Stayed for Reconsideration.* Notwithstanding any other provision of this subpart, the effectiveness of §§ 63.164 and 63.170 of subpart H is stayed from October 28, 1994, to January 26, 1995 only as applied to those sources subject to § 63.100 (k)(3)(i).

3. Section 63.190 is amended by adding paragraph (i) to read as follows:

§ 63.190 Applicability and designation of source.

* * * * *

(i) *Sections Stayed for Reconsideration.* Notwithstanding any other provision of this subpart, the effectiveness of §§ 63.164 and 63.170 of subpart H is stayed from October 28, 1994, to January 26, 1995 only as applied to those sources subject to § 63.190 (e)(2).

[FR Doc. 94-26818 Filed 10-27-94; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7604]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Deputy Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Deputy Associate Director has determined that