

regulatory amendments will have only a limited, beneficial effect on claimants and their representatives.

These amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

There is no Catalog of Federal Domestic Assistance number for these regulations.

List of Subjects in 38 CFR Part 14

Administrative practice and procedure, Claims, Organization and functions (Government Agencies), Veterans.

Approved: August 9, 1990.

Edward J. Dervinski,
Secretary.

PART 14--[AMENDED]

In 38 CFR Part 14, Legal Services, General Counsel, in § 14.629(a), paragraph (a)(2) is revised, and an authority citation is added at the end of paragraph (a), to read as follows:

§ 14.629 Requirements for accreditation of representatives, agents, and attorneys

(a) * * *

(2) Is either a member in good standing or a paid employee of such organization working for it not less than 1,000 hours annually; is accredited and functioning as a representative of another recognized organization; or, in the case of a county veteran's service officer recommended by a recognized State organization, meets the following criteria:

(i) Is a paid employee of the county working for it not less than 1,000 hours annually;

(ii) Has successfully completed a course of training and an examination which have been approved by a VA District Counsel within the State; and

(iii) Will receive either regular supervision and monitoring or annual training to assure continued qualification as a representative in the claim process; and

[Recordkeeping requirements contained in § 14.629 were approved by the Office of Management and Budget under OMB control number 2000-0018]

(Authority: 38 U.S.C. 210 (b)(1) and (c)(1) and 3402)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL-3821-2]

Radionuclide NESHAP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of stay.

SUMMARY: Today's action announces a further 180-day stay, pending reconsideration and judicial review, of subpart I of 40 CFR part 61 ("Subpart I"), National Emission Standards for Hazardous Air Pollutants for Radionuclide Emissions from Facilities Licensed by Nuclear Regulatory Commission and Non-DOE Federal Facilities (54 FR 51654 December 15, 1989). EPA is issuing this stay pursuant to the authority inherent to EPA's general rulemaking authority under Clean Air Act section 301(a), 42 U.S.C. 7601(a), and also pursuant to section 10(d) of the Administrative Procedure Act, 5 U.S.C. 705, which grants the Administrator discretion to postpone the effective date of Agency rules pending judicial review, which for subpart I is ongoing in United States Court of Appeals for the DC Circuit. This action continues in place the existing stay originally granted by the Administrator pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), 54 FR 51654 (December 15, 1989), and subsequently extended pursuant to the presently applicable authorities on March 15, 1990, 55 FR 10455 (March 21, 1990), and on July 12, 1990, 55 FR 29205 (July 18, 1990).

EFFECTIVE DATES: Effective September 11, 1990, subpart I of 40 CFR part 61 is stayed until March 10, 1991.

FOR FURTHER INFORMATION CONTACT: Fran Cohen, Environmental Standards Branch, Criteria and Standards Division (ANR-460), Office of Radiation Programs, Environmental Protection Agency, Washington DC 20460, (202) 475-9610.

SUPPLEMENTARY INFORMATION:

A. Background

On October 31, 1989, EPA promulgated under section 112 of the Clean Air Act, 42 U.S.C. 7412, National Emissions Standards for Hazardous Air

Pollutants ("NESHAPs") controlling radionuclide emissions to the ambient (outdoor) air from several source categories, including emissions from Licensees of the Nuclear Regulatory Commission and Non-DOE Federal Facilities. This rule was published in the Federal Register on December 15, 1989 (54 FR 51654; to be codified at 40 CFR part 61, subpart I ("Subpart I")). At the same time, EPA granted reconsideration of subpart I. 54 FR 51667-51668. In so doing, EPA established a 60-day period to receive further information and comment from the public on these issues, and also granted a 90-day stay of subpart I as provided by Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B). That stay expired on March 16, 1990. On March 15, 1990, EPA announced that it was continuing in place the existing stay for 120 days pending judicial review pursuant to section 10(d) of the Administrative Procedure Act ("APA"), 5 U.S.C. 705, 55 FR 10455 (March 21, 1990). On July 12, 1990, EPA announced that it was extending the existing stay 60 more days pursuant to APA section 10(d), and the additional authority inherent to EPA's general rulemaking authority under Clean Air Act section 301(a), 42 U.S.C. 7601(a), 55 FR 29205 (July 18, 1990).

At least 11 petitions for review, made pursuant to Clean Air Act section 307(b), 42 U.S.C. 7607(b), challenging EPA's radionuclide NESHAPs (54 FR 51654 December 15, 1989) have been filed with the United States Court of Appeals for the DC Circuit. Some of these petitions take issue with the rulemaking generally, while others are narrowly addressed to particular source categories such as subpart I. For instance, the Nuclear Management and Resources Council, Inc. ("NUMARC") has petitioned only insofar as the rules apply to nuclear power plants and fuel fabrication facilities (DC Circuit Case No. 90-1073), and thus its petition challenges only aspects of subpart I. In any event, all petitions have been consolidated by the court, *sua sponte*, under the heading *FMC Corp. v. EPA*, No. 90-1057 (DC Cir.).

EPA decided to reconsider subpart I on the basis of assertions that the NESHAP would conflict with existing standards and regulations implemented by the Nuclear Regulatory Commission ("NRC"), including those pertaining to radioisotope therapies. See 54 FR 51667-51668. Moreover, EPA was concerned with the issue, raised by the Nuclear Regulatory Commission, whether the NESHAP provides additional health benefits or is necessary to protect public

health with an ample margin of safety.

Id.

In conducting reconsideration proceedings, EPA has received numerous comments reiterating the view that regulation is not necessary in light of the existing NRC-implemented regulatory scheme, and asserting that the record does not justify the additional and allegedly burdensome regulation contemplated by the subpart I NESHAP. In response to these comments, EPA has been investigating the nature of these facilities, their interaction with NRC, and the record bases for the rule, as well as meeting with various of the commenters to exchange information and further explain the requirements of subpart I. EPA's investigation is active and ongoing, and EPA anticipates that it will have information sufficient to rule on the pending petitions and to conclude reconsideration in an additional 180 days.

B. Issuance of Stay

EPA today further stays, pending reconsideration and judicial review, for an additional 180 days until March 10, 1991, the NESHAP for NRC-Licensees and Non-DOE Federal Facilities, 40 CFR part 61, subpart I. This stay is issued pursuant to the authority inherent to EPA's general rulemaking authority under Clean Air Act section 301(a), 42 U.S.C. 7601(a), and also pursuant to section 10(d) of the Administrative Procedure Act ("APA"), 5 U.S.C. 705, which grants the Administrator discretion to postpone the effective date of Agency rules pending judicial review, which for subpart I is ongoing in the United States Court of Appeals for the DC Circuit. It is intended to continue in place the stay initially issued by EPA pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), on December 15, 1989, 54 FR 51666, and extended for 180 days by subsequent stays issued on March 15, 1990, and July 12, 1990, pursuant to APA section 10(d) and Clean Air Act section 301(a), 55 FR 10455 (March 21, 1990); 55 FR 29205 (July 18, 1990).

EPA has an ongoing proceeding for reconsideration of subpart I, announced on December 15, 1989, 54 FR 51667-51668. These proceedings are currently active, and EPA is accumulating and analyzing the information necessary to determine whether the subpart I NESHAP is necessary to protect public health with an ample margin of safety or whether it conflicts with existing NRC-implemented regulations. EPA requires an additional 180 days to complete this task. Because reconsideration has not concluded and no final decision has been made by the Agency as to whether

to propose modification to subpart I, and given the ongoing judicial review proceedings on the DC Circuit, justice requires that the stay of the effective date of subpart I be continued for 180 days. EPA believes that most facilities subject to this rule are in compliance and that, during the short period provided by this stay, their emissions are unlikely to increase. Thus, granting the stay would have little or no potential to have any adverse effects on public health, and is therefore consistent with the public interest.

Dated: September 10, 1990.

William K. Reilly,

Administrator.

[FR Doc. 90-21693 Filed 9-14-90; 8:45 am]

BILLING CODE 4590-25-M

40 CFR Part 261

[SW-FRL-3830-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denial

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is finalizing its decision to deny a petition submitted by Allegan Metal Finishing Company (Allegan), Allegan, Michigan, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 263, 274, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

This rulemaking finalizes the proposed denial for Allegan's petitioned wastes published on November 7, 1989 (see 54 FR 46737). The effect of this action is that these wastes must continue to be handled as hazardous in accordance with 40 CFR parts 260 through 268 and the permitting standards of 40 CFR part 270.

EFFECTIVE DATE: September 17, 1990.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW. (room M2427), Washington DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through

Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-90-ALDF-FFFF". The public may copy material from any regulatory docket at a cost of \$0.15 per page.

FOR FURTHER INFORMATION CONTACT:

For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Chichang Chen, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4762.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine: (1) That the waste to be excluded is not hazardous based upon the criteria for which it was listed; and (2) that no other hazardous constituents are present in the waste at levels of regulatory concern.

B. History of the Rulemaking

Allegan petitioned the Agency for a one-time upfront exclusion (for wastes that have not yet been generated) based on a bench-scale waste treatment process (i.e., scaled down version of a proposed treatment system), untreated waste characteristics, and process descriptions. After evaluating the petition, EPA proposed, on November 7, 1989, to deny Allegan's petition to exclude its wastes from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 54 FR 46737).

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to deny Allegan's petition.

II. Disposition of Delisting Petition

A. Allegan Metal Finishing Company, Allegan, Michigan

1. Proposed Denial

Allegan Metal Finishing Company (Allegan), located in Allegan, Michigan, electroplates carbon steel with zinc chloride/zinc cyanide on a job shop basis. Allegan petitioned the Agency for a one-time upfront exclusion of wastewater treatment sludges, presently contained on-site in two sand seepage lagoons and proposed to be physically