Comments on the classification received on or before December 8, 1992, will be considered by FDA during its preparation of a final rule.

Interested persons may, on or before December 8, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 25, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-29215 Filed 11-27-92, 1 35 pm]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-33-92]

RIN 1545-AQ78

Information Reporting for Reimbursements of Interest on Qualified Mortgages; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to the notice of proposed rulemaking (IA-33-92), which was published in the Federal Register for Friday, October 16, 1992 (57 FR 47428). The proposed amendments relate to reporting requirements for reimbursements of interest paid in connection with a qualified mortgage.

FOR FURTHER INFORMATION CONTACT: Stephen J. Toomey, (202) 622-4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction relates to section 6050H of the Internal Revenue Code, and provides guidance on the reporting of reimbursements of interest paid on qualified mortgages.

Need for Correction

As published, the proposed regulations contain an error which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (IA-33-92), which was the subject of FR Doc. 92-24837, is corrected as follows:

1. On page 47428, column 3, in the preamble under the caption "DATES", second line from the bottom of the paragraph, the language "1992, at 10 a.m. must be received by" is corrected to read "1992, at 1 p.m. must be received by".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-28855 Filed 11-30-92; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL-4540-2]

National Emissions Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to rescind subpart I of 40 CFR Part 61 (Subpart I) as it applies to facilities licensed by the Nuclear Regulatory Commission ("NRC") or NRC Agreement States which are not engaged in the generation of nuclear power. EPA is issuing this proposed rule pursuant to section 112(d)(9) of the Clean Air Act Amendments of 1990. This section allows EPA to decline to regulate NRC licensees if the Administrator determines by rule that the regulatory program established by the NRC pursuant to the Atomic Energy Act provides an ample margin of safety to protect the public health. This proposal to rescind Subpart I for NRC licensees other than nuclear power reactors is based on an extensive survey of these licensees which found that all surveyed facilities are presently in compliance with the quantitative emission limit in subpart I and on commitments made by NRC in a Memorandum of Understanding with EPA.

DATES: Comments concerning this proposed rule must be received by EPA on or before January 14, 1993. A public hearing concerning this proposal will be held in Washington, DC at 10 a.m. on January 14, 1993 if a request for such a hearing is received by December 15, 1992. If a hearing is held, the docket will remain open until February 15, 1993 for submission of supplementary or rebuttal information. To request a hearing or determine the location of any hearing, please contact Fran Jonesi at (202) 233-9229

ADDRESSES: Comments should be submitted addressed to: Central Docket Section LE-131, Environmental Protection Agency, Attn: Docket No. A-92-50, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Fran Jonesi, Air Standards & Economics Branch, Criteria and Standards Division (ANR-460W), Office of Radiation Programs, Environmental Protection Agency, Washington, DC 20460, (202) 233-9229.

SUPPLEMENTARY INFORMATION:

A. Background

1. Regulatory History

On October 31, 1989, EPA promulgated National Emission Standards for Hazardous Air Pollutants (NESHAPs) controlling radionuclide emissions to the ambient air from several source categories. 54 FR 51654 (December 15, 1989). Supart I of the standard governs two groups of facilities: (1) NRC-licensed or NRC Agreement state-licensed facilities ("NRC-licensed facilities"); and (2) federal facilities other than NRC-licensed facilities not owned or operated by the Department of Energy ("non-DOE federal facilities"). 40 CFR part 61 subpart I. NRC-licensed facilities include facilities involved in the uranium fuel cycle (those engaged in the conversion of uranium ore to produce electric power such as uranium mills, fuel fabrication plants and nuclear power reactors), as well as other types of facilities licensed to use or possess nuclear materials such as hospitals, medical research facilities, radiopharmaceutical manufacturers, laboratories, and industrial facilities. EPA estimates that there are over 6,000 NRC-licensed facilities in the United States.

Subpart I limits radionuclide emissions to the ambient air from NRC-licensed facilities to that amount which would cause any member of the public to receive in any year an effective dose equivalent (ede) of 10 millirem, of which no more than 3 millirem ede may be from radioiodines. These limits represent the Agency's application to radionuclide emissions of the policy for regulating section 112 pollutants which was first announced in the benzene NESHAP, 54 FR 38044 (September 14, 1989), which utilizes the two-step process outlined in *NRDC* v. *EPA*, 824 F.2d at 1146 (1987) (the Vinyl Chloride decision).

At the time of promulgation of the rule, EPA granted reconsideration of subpart I based on information received late in the rulemaking on the subject of duplicative regulation by NRC and EPA and on potential negative effects of the standard on nuclear medicine. EPA established a comment period to receive further information on these subjects, and also granted a 90-day stay of subpart I as permitted by Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607 (d)(7)(B). EPA subsequently extended the stay of the effective date of subpart I on several occasions. (55 FR 10455, March 21, 1990; 55 FR 29205, July 18, 1990; and 55 FR 38057, September 17, 1990).

2. Clean Air Act Amendments of 1990

In November 1990, Congress passed new legislation comprehensively amending the Clean Air Act, which included a section directly addressing the issue of dual regulation of NRC licensees by NRC and EPA. Section 112(d)(9) of the Clean Air Act now provides that: No standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health.

This provision reflects the intention of Congress to relieve NRC licensees of the burdens of dual regulation by EPA and NRC as long as public health is protected with an ample margin of safety.

3. Reconsideration of Subpart I

In light of its new authority under section 112(d)(9), EPA reviewed the information provided to the Agency during the reconsideration of subpart I to determine whether the NRC program protects the public health with an ample margin of safety. EPA's analysis focused on two issues: (1) Whether the NRC regulatory program in practice currently results in sufficiently low doses to protect the public health with an ample margin of safety; and (2) whether the NRC program is sufficiently comprehensive and thorough and administered in a manner which will continue to protect public health in the future.

After reviewing data from all categories of subpart I facilities, EPA concluded that it had sufficient information concerning the current doses resulting from the NRC regulatory program for only one subcategory of NRC-licensees, the nuclear power reactor sector of the uranium fuel cycle, to make an initial determination under section 112(d)(9). EPA independently calculated doses for every site with one or more operating reactors using the most current year for which a complete set of data was available (1988). In all cases, doses did not exceed 1.0 mrem/year ede to the maximally exposed individual. Thus, the NRC regulatory program, for the years examined, resulted in emissions at least 10 times lower than the limit of 10 mrem/year ede established by subpart I. EPA also compared the 1988 data with historical data to determine if the 1988 data was representative of long term trends in population and individual doses. Although the populations around the reactor facilities and the facility capacity factors have increased over the last fifteen years, the average annual collective population doses have steadily declined. In addition, an evaluation of the NRC program provided assurance that emissions would continue to be adequately controlled in the future.

Accordingly, on August 5, 1991, EPA published a proposed rule that would rescind subpart I as it applies to nuclear power reactors, along with a final rule staying the applicability of subpart I for these facilities during the pendency of the rescission rulemaking. EPA is currently reviewing comments received during the public comment period and expects to make a final determination concerning the proposed rescission shortly.

After evaluating the information collected during the reconsideration of subpart I and otherwise available to EPA, the Agency determined that it lacked sufficient data concerning actual radionuclide emissions from all categories of NRC licensees other than nuclear power reactors to make an informed determination under section 112(d)(9). However, EPA also concluded that it was probable that most if not all categories of NRC licensees were in compliance with the emission standard established by subpart I, and that collection of additional information concerning radionuclide emissions from such facilities would clarify this issue. Therefore, on April 15, 1991, EPA issued a final rule staying the effectiveness of subpart I for all categories of NRC-licensed facilities except nuclear power reactors until November 15, 1992, or until such earlier date that EPA was prepared to make an initial determination under Clear Air Act section 112(d)(9) and conclude its consideration under section 307(d)(7)(B). 56 FR 18735 (April 24, 1991). The purpose of this stay was to avoid the substantial costs and disruption associated with formal implementation of subpart I while EPA was collecting the additional information necessary to make the substantive determination contemplated by section 112(d)(9).

B. EPA's Investigation of NRC Licensees Other Than Nuclear Power Reactors

1. EPA Study of Emissions From NRC-Licensed Facilities

In order to determine whether NRC licensees other than nuclear power reactors are presently in compliance with those emission limits deemed necessary by EPA to protect public health, EPA undertook a comprehensive study to determine the doses that currently result from emissions study to determine the doses that currently result from emissions from these facilities. A major component of this study was a survey and analysis of a randomly selected subset of the approximately 6,000 NRC and Agreement State licensees. In order to gather the necessary information, EPA sent a letter to the selected facilities requiring them to submit specific information concerning their emissions and proximity to exposed populations under the authority of section 114 of the Clean Air Act. Doses were then determined by EPA using the COMPLY computer program which was specified in subpart I. EPA also investigated a group of "targeted" facilities selected for their potential to cause high doses.

a. *Random Survey.* EPA selected for study a random subset of the thousands of facilities such as hospitals, radiopharmaceutical manufacturers and distributors, and laboratories for which the doses and other emissions data were not well characterized. In order to estimate the dose from each of these facilities, EPA planned to estimate doses from a random subset and needed release rates and other parameters for each facility. EPA obtained Office of Management and Budget approval to send questionnaires to as many as 670 facilities to get the release rates and the other necessary parameters. Since facilities handling only sealed sources do not present the potential for airborne emissions, they had been exempted from the NESHAP and were also excluded from analysis in the EPA study. Because EPA could not accurately determine in advance whether a given NRC or Agreement

State licensee handled only sealed sources and would therefore be excluded from the analysis, the Agency oversampled in order in order to obtain the required number of responses.

A sample of at least 300 facilities was needed in order to be 95 percent confident that EPA could establish a dose level below which 99 percent of the population lies. Over 600 letters were sent to a random subset of NRC or Agreement State licensees. Responses were submitted by all but three facilities and 367 of the responses were determined to be from facilities using unsealed sources.

The COMPLY computer program was used to estimate doses to the most exposed individuals located near the 367 NRC or Agreement State licensed facilities. Meteorological data for the randomly selected sites was obtained from the National Oceanic and Atmospheric Administration's data base. Many facilities were contacted to obtain clarification or site-specific information. The dose to the nearest resident to each facility was calculated from the facility-specific information taken from the questionnaire and using meteorological data the closest weather station.

b. *Targeted Facilities.* The facilities included in this phase of the study fell into three sub-groups: (a) Facilities determined to have potential for large emissions and not fully characterized in previous evaluations (examples included research reactors, rare earth producers, waste incinerators, low level waste facilities, and large university hospitals); (b) facilities with potential for large emissions which were more adequately characterized in previous assessments (these included fuel cycle facilities such as uranium mills, fuel fabrication plants, UF_6 conversion plants); (c) atypical activities for which no formal evaluations had been made—these included activities such as depleted uranium weapons testing.

For facilities in the first sub-group, the data needed to characterize the emissions and doses were obtained from existing NRC docket information, supplemented as necessary with requests for missing data using section 114 of the CAA. The results of the previous assessments for facilities in the second sub-group were summarized and updated to include more recent information. For the third sub-group, EPA reviewed the activity in question to ascertain the potential for significant airborne emissions, and evaluated the doses for these activities found to involve potentially significant emissions.

c. *Survey Results.* After evaluating both the randomly surveyed 367 facilities and the specifically targeted facilities using the COMPLY computer program, EPA determined that the highest estimated dose received by any member of the public from airborne emissions of radionuclides from any facility was 8.0 mrem/year ede. Thus, *none* of the facilities evaluated appeared to cause a dose exceeding the levels established by the Administrator in the radionuclides NESHAP, which are equivalent to a lifetime risk to the maximally exposed individual of approximately one in ten thousand. The median does for the population is 0.00069 mrem/y. When the results of the survey were statistically extrapolated to the entire population of NRC or Agreement State licensees. EPA concluded that virtually all of the facilities are causing doses to members of the public which are below the limits established by EPA. A detailed report on the results of the EPA study has been included in the docket for this proposed rule. After evaluating the results of the study, EPA has concluded that the NRC regulatory program currently controls emissions to levels which provide an ample margin to safety to protect the public health.

2. Evaluation of the NRC Regulatory Program Under the Atomic Energy Act

To ascertain whether the NRC regulatory program will assure that emissions from NRC licensees other than nuclear power reactors continue to provide an ample margin of safety to protect the public health, EPA also analyzed the structure of the present and future NRC program.

NRC's regulations in 10 CFR part 20 establish standards for protection against radiation hazards arising out of activities conducted under licenses issued by the NRC and were issued pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974.

The portions of part 20 that apply to radionuclide emissions from licensed facilities are contained in § 20.105, which sets permissible levels of radiation in unrestricted areas, and § 20.106, which establishes limits on radioactivity in effluents to unrestricted areas. Section 20.105 states that the Commission will approve the proposed limits in an application if the applicant demonstrates that the proposed limits are not likely to cause any individual in an unrestricted area to receive a whole body dose in excess of 500 mrem/year.

Section 20.106 limits the release of radioactive material to unrestricted areas to levels that will not result in average annual radionuclide concentrations in air and water in excess of the limits set forth in Table II of appendix B of part 20. This secondary standard is designed to provide assurance that the primary health-based standard of 500 mrem/year to the whole body or the equivalent to any organ is not exceeded.

In addition to these numerical standards, paragraph 20.1(c) encourages each licensee to make every reasonable effort to maintain radiation exposures and releases of radioactive material in effluents to unrestricted areas as low as reasonably achievable ("ALARA").

On December 13, 1990, major revisions to part 20 were approved by the NRC. However, these revisions will not become mandated until January 1994. The revised rule implements 1987 Presidential guidance on occupational radiation protection and the recommendations of scientific organizations to establish risk-based limits and a system of dose limitation in accordance with the guidance published by the International Commission on Radiation Protection. In adopting the risk-based methodology, the NRC reduced the allowable dose limit for members of the public from 500 mrem/year to 100 mrem/year ede from all pathways. Of the 100 mrem/year ede, NRC allows only 50 mrem/year ede by the air pathway, according to their Effluent Air Concentration Limits in appendix B, which is then subject to further reduction under the ALARA provisions. Doses resulting from direct radiation and radionuclides released in gaseous and liquid effluents must be evaluated in determining compliance.

Another significant revision of part 20 codifies the ALARA principle, which was previously just guidance, and which now requires that to the extent practicable, operations are to be conducted in a manner that keeps doses to both workers and members of the public ALARA. This is defined to mean:

> making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.
>
> (10 CFR 20.1003, 56 FR 23360, 23392 (May 21, 1991))

In addition, any licensee that "manufactures, produces, acquires, receives, possesses, uses, or transfers"

byproduct material for medical use must reflect its implementation of ALARA in a written radiation protection program. 10 CFR 35.20.

Uranium fuel cycle facilities must also meet the requirements of another regulation, 40 CFR part 190. This regulation requires uranium fuel cycle operations to be conducted in such a manner that there is reasonable assurance that the annual radiation dose equivalent to any member of the public from all uranium fuel cycle sources does not exceed 25 mrem to the whole body, 75 mrem to the thyroid, and 25 mrem to any other organ. This standard applies to gaseous and liquid effluent pathways and direct radiation.

Although the NRC regulatory program contains dose limits that are higher than those contained in the radionuclide NESHAP, the actual operation of the existing program has resulted in lower doses to the public than those which would be allowed under the NESHAP. Now that ALARA is a regulatory requirement rather than mere guidance, EPA expects and ALARA will operate to restrain future increases in radionuclide emissions by NRC licensees which might otherwise be permissible under the NRC program.

3. Memorandum of Understanding

In addition to promulgating the proposed changes to 10 CFR part 20, NRC has committed to taking several actions which will formalize the concept of ALARA and help define its limits. NRC and EPA have entered into a Memorandum of Understanding, a copy of which is printed at the end of this notice. Under the provisions of the MOU, NRC has agreed to develop and issue a regulatory guide on designing and implementing a radiation protection program to ensure that doses resulting from effluents from licensed facilities will remain a slow as is reasonably achievable. The guide will describe the types of administrative programs and objectives for environmental radiation protection programs that the NRC staff finds to be acceptable in satisfying the requirements of 10 CFR 20.1101(b). The guide will establish a specific design goal of 10 mrem/year ede to the maximally exposed individual from radionuclide air emissions of all NRC or Agreement State material licensees. NRC issued a draft of this guide in the fall of 1992 and intends to make it available for public notice and comment. NRC plans to publish a final version of this guide by April 1993. Once compliance with the revised 10 CFR part 20 is mandatory, and the final guide is available, NRC will review licensee compliance with 10 CFR part 20 radiation protection program requirements through license renewals and ongoing inspection efforts. If any licensee fails to comply with the ALARA requirements of the revised 10 CFR part 20 and license conditions, NRC will take enforcement action in accordance with NRC's Enforcement Policy in appendix C of 10 CFR part 2.

NRC also has agreed to develop inspection guidance on ALARA requirements for environmental effluents and incorporate ALARA considerations in Standard Review Plans. Inspection guidance documents are formal documents which can be made available for public comment before being issued by the NRC. In addition, NRC will work with Agreement States, which must adopt and implement regulations addressing maintenance of effluents, including air emissions, at ALARA levels, compatible with NRC's regulations in the revised 10 CFR part 20. NRC has also agreed that five years from the execution of the MOU, NRC will undertake another survey of a subset of NRC-licensees to verify that the NRC program is continuing to provide an ample margin of safety.

C. Proposed Rule to Rescind 40 CFR Part 61 Subpart I for NRC-Licensed Facilities Other Than Nuclear Power Reactors

Under section 112(d)(9), EPA may decline to regulate facilities licensed by the NRC or Agreement States if EPA consults with the NRC, engages in public notice and comment rulemaking, and finds that NRC's regulatory program provides an equivalent level of public health protection (i.e., an ample margin of safety) to that which would be provided by EPA under the Clean Air Act. Over the past eighteen months, EPA has engaged in a thorough examination of radionuclide emissions by NRC-licensed facilities other than nuclear power reactors and has found that such emissions result in doses consistently below EPA's standard of 10 mrem/year for all radionuclides and 3 mrem/year for radioiodines. In addition, EPA has had substantial discussions with the NRC concerning its program and the steps which will facilitate elimination of dual regulation by EPA and NRC. The result of this interagency consultation has been the execution of the MOU described above.

Based on the result of the survey undertaken by EPA and the commitments by NRC in the MOU, EPA has made an initial determination that the NRC program under the Atomic Energy Act provides an ample margin of safety to protect the public health. In light of the legislative policy embodied in section 112(d)(9), EPA is today proposing to rescind subpart I of 40 CFR part 61 for NRC-licensed facilities other than nuclear power reactors. EPA will make a final determination under section 112(d)(9) when it takes final action concerning the proposed rescission.

While this rule would rescind subpart I for NRC-licensed and NRC Agreement State-licensed facilities other than nuclear power reactors, nothing in the proposed rule affects radionuclide emergency response reporting and liability requirements under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the emergency response reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA).

D. Applicability of Subpart I During Rulemaking on Rescission

1. Action on Proposed Stay

On September 18, 1992, EPA published a proposed rule to stay the applicability of subpart I to NRC licensees other than nuclear power reactors during the pendency of this rulemaking on rescission. 57 FR 43173. Given the Agency's determination that affected facilities are presently in compliance with the numerical emission limits in subpart I and the significant burdens on NRC licensees and on EPA which would result from formal imposition of dual regulatory programs in the interim period prior to rescission, EPA concluded that it was conistent with the policy disfavoring dual regulation established by section 112(d)(9) to continue the present stay of subpart I as applied to NRC licensees other than nuclear power reactors while EPA is considering rescission.

EPA has reconsidered its proposal to extend the stay of Subpart I for NRC licensees other than nuclear power reactors during rescission proceedings in light of the decision which the D.C. Circuit Court of Appeals issued on September 25, 1992 in *NRDC* v. *Reilly*, No. 912–1294 (D.C. Cir.). That decision concerned judicial review of the previous stay of Subpart I for NRC licensees other than nuclear power reactors, which EPA adopted while collecting the substantive information on which the current proposal to rescind is based. In *NRDC* v. *Reilly*, EPA argued that section 112(d)(9) does not specifically address the procedures to be utilized by EPA in deciding whether to rescind existing NESHAPs and that the stay adopted by EPA during the

pendency of information collection was consistent with the general policy disfavoring dual regulation established by section 112(d)(9). The majority opinion in *NRDC* v. *Reilly* rejected this interpretation of section 112(d)(9) as inconsistent with the language of the statute. While the opinion does not expressly address the question of whether EPA may stay a previously promulgated NESHAP during the pendency of a rescission rulemaking under section 112(d)(9), the broad nature of the court's rationale leaves substantial doubt concerning the legality of such an action. Therefore, EPA has decided as a prudential matter not to renew the stay of subpart I for NRC licensees other than nuclear power reactors, and will be publishing that decision shortly.

2. Formal Applicability of Subpart I

The stay of subpart I for all NRC licensed facilities other than nuclear power reactors considered by the Court in *NRDC* v. *Reilly* is scheduled to expire by its own terms on November 15, 1992. (Although the adverse decision in *NRDC* v. *Reilly* would otherwise vacate the stay, under the applicable procedural rules in the D.C. Circuit, the mandate legally vacating the stay will not be formally transmitted to EPA until November 16, 1992.) A separate legislative stay of subpart I for medical research and treatment facilities which was set forth in section 112(q)(4) of the 1990 Clean Air Act Amendments also expires on November 15, 1992.

It was necessary for EPA to collect the substantive information on which this rescission proposal is based before it could make an initial determination under section 112(d)(9). EPA must make its final determination under section 112(d)(9) through rulemaking. Since EPA has decided that it would not be appropriate in light of the *NRDC* v. *Reilly* decision to extend the stay of subpart I for NRC licensees other than nuclear power reactors during the rulemaking on rescission, subpart I will formally take effect for these licensees (including medical research and treatment facilities) on November 16, 1992. The practical consequences for affected facilities are discussed below.

3. Scope of Requirements and Administrative Relief

When subpart I becomes effective on November 16, 1992, the affected facilities would be subject to the substantive requirements in the subpart. Those facilities would not be required to submit any documentation of compliance to EPA until March 31, 1993. On that date, certain of the affected facilities would be required to submit a report covering any portion of the 1992 calendar year during which the reporting requirements were actually in effect. EPA will endeavor to take final action concerning today's rescission proposal prior to March 31, 1993.

EPA has the enforcement discretion to determine whether or not to initiate enforcement actions for alleged violations of subpart I during the pendency of the rulemaking on rescission. The Agency's extensive investigation of radionuclide emissions from NRC-licensees other than nuclear power reactors indicates that those facilities are currently in compliance with the numerical emission limits of the subpart. EPA is assuming that the NRC program will continue to result in compliance by its licensees until the subpart has been rescinded. Based on this understanding, the enforcement of subpart I, as it applies to NRC-licensees other than nuclear power reactors, will not be a high priority with the Agency.

At the time the rule was originally promulgated and the Agency commenced reconsideration of subpart I, OMB did not approve the substantive recordkeeping and reporting requirements under the Paperwork Reduction Act. In view of the impending effectiveness of the rule, EPA has now resubmitted to OMB a request to approve these information collection and reporting requirements.

E. Miscellaneous

1. Paperwork Reduction Act

There are no information collection requirements in this proposed rule.

2. Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether this regulation, if promulgated, would be a "major rule" and therefore subject to certain requirements of the Order. The EPA has determined that rescinding subpart I for NRC licensees other than nuclear power reactors would result in none of the adverse economic effects set forth in section I of the Order as grounds for finding a regulation to be a "major rule." This regulation would not be major because the nationwide compliance costs would not meet the $100 million threshold, the regulation would not significantly increase prices or production costs, and the regulation would not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets.

The Agency has not conducted a Regulatory Impact Analysis (RIA) of this proposed regulation because this action does not constitute a major rule.

3. Regulatory Flexibility Analysis

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an "initial regulatory flexibility analysis" which describes the effect of the proposed rule on small business entities. However, section 605(b) of the Act provides that an analysis is not required when the head of an Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This proposed rule to rescind 40 CFR part 61, subpart I, if promulgated as a final rule, will have the effect of preventing the burden which would otherwise result from imposition of the requirements in subpart I. Pursuant to section 605 (b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule, which would have affected between 6000 and 12000 facilities, will not have significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 61

Air pollution control, Readionuclides.

Dated: November 18, 1992.

William K. Reilly,

Administrator.

Part 61 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

Part 61—[Amended]

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7414, 7416, 7601.

2. Part 61 is amended by revising the heading for Subpart I and by revising § 61.100 to read as follows:

Subpart I—National Emission Standards for Radionuclide Emissions From NRC-Licensed Nuclear Power Reactors and Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H

§ 61.100 Applicability.

The provisions of this Subpart apply to NRC-licensed nuclear power reactors and to facilities owned or operated by any Federal agency other than the Department of Energy and not licensed by the Nuclear Regulatory Commission or an Agreement State, except that this Subpart does not apply to disposal at facilities regulated under 40 CFR part

191, subpart B, or to any uranium mill trailings pile after it has been disposed of under 40 CFR part 192, or to low energy accelerators.

* * * * *

§ 61.101 [Amended]

3. Section 61.101 is amended by removing paragraph (e) and redesignating paragraph (f) as (e).

§ 61.107 [Amended]

4. Section 61.107 is amended by removing and reserving paragraphs (c)(2) and (c)(3).

[FR Doc. 92–29209 Filed 11–30–92; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 300

[FRL–4537–8]

National Oil and Hazardous Substance Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete Pioneer Sand Company Site (Site) from the National Priorities List (NPL); request for comments.

SUMMARY: EPA, Region IV, announces its intent to delete the Site from the NPL and requests public comment on this action. The NPL constitutes part of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which is Appendix B of 40 CFR part 300. EPA and the State of Florida (State) have determined that all appropriate CERCLA actions have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments on the Notice of Intent to Delete the Site from the NPL should be submitted no later than December 26, 1992.

ADDRESSES: Comments may be mailed to: Ms. Patsy Goldberg, Remedial Project Manager, South Superfund Remedial Branch, Waste Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Comprehensive information on this Site is available through the EPA Region IV public docket, which is located at EPA's Region IV office and is available for viewing by appointment only from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region IV docket office.

The address for the regional docket office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone No.: (404) 347–2930.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida.

FOR FURTHER INFORMATION CONTACT: Ms. Patsy Goldberg, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347–2643.

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA, Region IV, announces its intent to delete the Site from the NPL, which constitutes appendix B of the NCP, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action.

EPA will accept comments concerning this Site for thirty (30) calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), releases may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) EPA has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

In addition to the above, for all Remedial Actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, it is EPA's policy to review all remedial actions at a site (except operation and maintenance), and ensure that all appropriate action has been taken to ensure that the site remains protective of public health and the environment.

III. Deletion Procedures

EPA Region IV will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this Site:

(1) EPA, Region IV, and the State have agreed to conduct five-year reviews at this Site. (2) EPA, Region IV, has recommended deletion and has prepared the relevant documents. (3) The State has concurred with the deletion decision. (4) Concurrent with this National Notice of Intent to Delete, a local notice has been published in local newspapers and has been distributed to appropriate federal, state, and local officials, and other interested parties. (5) The Region has made all relevant documents available in the Regional Office and local Site information repository.

Deletion of a site from the NPL does not itself, create, alter, or revoke any individual rights or obligations. The NPL is designated primarily for information purposes and to assist Agency management. As mentioned in section II of this notice, 40 CFR 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

The comments received during the notice and comment period will be evaluated before the final decision to delete. The Region will prepare a Responsiveness Summary, which will