commonly accepted industry practices because of their extreme vulnerability to damage. For further information, consult the American National Standards Institute (ANSI), Inc., 11 West 42nd Street, New York, NY 10036; and the Society of Motion Picture and Television Engineers, 595 West Hartsdale Avenue, White Plains, NY 10607.

(b) Use only personnel trained to perform their audiovisual duties and responsibilities and ensure that equipment intended for projection or playback is in good working order.

(c) Loan permanent or unscheduled audiovisual records to non-Federal recipients only in conformance with the provisions of part 1228 subpart E of this chapter. Such records may be loaned to other Federal agencies only if a record copy is maintained in the agency's custody.

(d) Take all steps necessary to prevent accidental or deliberate alteration or erasure of audiovisual records.

(e) Ensure that no information recorded on permanent or unscheduled magnetic sound or video media is erased.

(f) If different versions of audiovisual productions (e.g., short and long versions or foreign-language versions) are prepared, keep an unaltered copy of each version for record purposes.

(g) Maintain the association between audiovisual records and the finding aids for them, such as captions and published and unpublished catalogs, and production files and similar documentation created in the course of audiovisual production.

(h) Maintain disposable audiovisual records separate from permanent ones in accordance with General Records Schedule 21 and a records schedule approved by NARA for the agency's other audiovisual records.

§ 1232.30 Choosing formats.

Agencies must: (a) When ordering photographic materials for permanent or unscheduled records, ensure that still picture negatives and motion picture preprints (negatives, masters, etc.) are composed of polyester bases and are processed in accordance with industry standards as specified in ANSI/ISO 543–1990 (ANSI IT9.6–1991) Specifications for Safety Film for Photographic Films; IT9.1–1991 Specifications for Stability for Silver Gelatin Type Imaging Media; and, ASC PH4.8–1985 Determination and Measurement of Residual Thiosulfate and Other Chemicals in Films, Plates and Papers, which are incorporated by reference. (Currently, not all motion picture stocks are available on a polyester base.) It is particularly important to limit residual sodium thiosulfate (hypo) on newly processed black-and-white photographic film to the range of .014 grams per square meter. Require laboratories to process film in accordance with this standard. Excessive hypo will shorten the longevity of film and accelerate color fading. Process color film in accordance with the manufacturer's recommendations. If using reversal type processing, request full photographic reversal; i.e., develop, bleach, expose, develop, fix, and wash. The standards cited in this paragraph are available from the American National Standards Institute (ANSI), Inc., 11 West 42nd Street, New York, NY 10036. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, D.C. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials be published in the Federal Register.

(b) Refrain from using motion pictures in a final "A & B" format (two precisely matched reels designed to be printed together) for the reproduction of excerpts or stock footage.

(c) Use only industrial or professional recording equipment and videotape, previously unrecorded, for original copies of permanent or unscheduled recordings. Limit the use of consumer formats to distribution or reference copies or to subjects scheduled for disposal. Video cassettes in the VHS format are unsuitable for use as originals of permanent or unscheduled records due to their inability to be copied without significant loss in image quality.

(d) Record permanent or unscheduled audio recordings on 1/4-inch open-reel tapes at 3 3/4 or 7 1/2 inches per second, full track, using professional unrecorded polyester splice-free tape stock. Audio cassettes, including mini-cassettes, are not sufficiently durable for use as originals in permanent records or unscheduled records although they may be used as reference copies.

§ 1232.32 Disposition.

The disposition of audiovisual records shall be carried out in the same manner as that prescribed for other types of records in part 1228 of this chapter. For further instructions on the transfer of permanent audiovisual records to the National Archives see § 1228.184 of this chapter, Audiovisual Records.

Dated: July 24, 1995.

John W. Carlin,

Archivist of the United States.

[FR Doc. 95–24024 Filed 9–27–95; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL–5301–1]

RIN 2060–AE39

National Emissions Standards for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities Not Covered by Subpart H

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of comment period.

SUMMARY: On December 1, 1992, EPA proposed to rescind 40 CFR part 61, subpart I, as it applies to facilities other than commercial nuclear power reactors licensed by the Nuclear Regulatory Commission (NRC) or NRC Agreement States. Subsequent to the publication of that proposal, EPA identified several concerns regarding the Agency's ability to make the substantive finding concerning the NRC program for these licensees necessary to support the proposed rescission under Clean Air Act Section 112(d)(9). As contemplated by Section 112(d)(9), EPA initiated consultations with NRC, and the agencies subsequently agreed on measures intended to resolve these concerns. EPA is today issuing this document because NRC has committed to propose a rule to constrain air emissions from licensees other than nuclear power reactors to a level which would result in a dose of no more than 10 mrem/year.

This document reaffirms the EPA proposal to rescind subpart I for NRC and Agreement State licensees other than nuclear power reactors, describes the expected proposed revisions to the NRC program which support such rescission, and invites additional comment on the sufficiency of the revisions of the NRC program to support the finding required by Section 112(d)(9). EPA is requesting comments only on the contents of this document and is establishing a 60 day period for receipt of all additional comments.

DATES: Comments concerning this document must be received by EPA on

or before November 27, 1995. EPA will hold a public hearing concerning the matters discussed in this document if a request for such a hearing is received by October 30, 1995. If such a hearing is requested, EPA will publish a separate document announcing the time and location of the hearing.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section LE–131, Environmental Protection Agency, Attn: Air Docket No. A–92–50, Washington, DC 20460. Requests to participate in the public hearing should be made in writing to the Director, Criteria and Standards Division, 6602J, Office of Radiation and Indoor Air, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Requests to participate in the hearing may also be faxed to EPA at (202) 233–9629.

FOR FURTHER INFORMATION CONTACT: Eleanor Thornton, Risk Assessment and Air Standards Branch, Criteria and Standards Division, 6602J, Office of Radiation and Indoor Air, Environmental Protection Agency, Washington, DC 20460 (202) 233–9773.

SUPPLEMENTARY INFORMATION:

Docket

Docket A–92–50 contains the rulemaking record. The docket is available for public inspection between the hours of 8 A.M. and 5:30 P.M., Monday through Friday, in room M1500 of Waterside Mall, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying. The fax number is 202–260–4400.

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I. Background

A. Regulatory History

On October 31, 1989, EPA promulgated National Emission Standards for Hazardous Air Pollutants (NESHAPS) under Section 112 of the Clean Air Act to control radionuclide emissions to the ambient air from a number of different source categories. 54 FR 51654 (December 15, 1989). Subpart I of 40 CFR Part 61 covers two groups of facilities: (1) Facilities licensed and regulated by the Nuclear Regulatory Commission (NRC) and its individual Agreement States ("NRC licensed facilities"), and (2) federal facilities which are not licensed by the NRC and are not owned or operated by the Department of Energy ("non-DOE federal facilities"). The first group is quite diverse, and includes facilities which have received a license to use or possess nuclear materials such as hospitals, medical research facilities, radiopharmaceutical manufacturers, laboratories and industrial facilities, as well as facilities involved in the uranium fuel cycle (the conversion of uranium ore to electric power) such as uranium mills, fuel fabrication plants, and nuclear power reactors. EPA estimates there are over 18,000 such NRC-licensed facilities in the United States.

The present rulemaking concerns all NRC licensed facilities other than commercial nuclear power reactors, which are the subject of a separate rulemaking (60 FR 46206, Sept. 5, 1995). Non-DOE federal facilities are not affected in any way by the present rulemaking.

Subpart I limits radionuclide emissions from NRC-licensed facilities to the ambient air to that amount which would cause any member of the public to receive in any year an effective dose equivalent (ede) no greater than 10 millirem (mrem), of which no more than 3 mrem ede may be from radioiodine. These limits were established pursuant to an EPA policy for section 112 pollutants first announced in the benzene NESHAP (54 FR 38044, September 14, 1989), utilizing the two-step process outlined in the vinyl chloride decision. *Natural Resources Defense Council* v. *EPA*, 824 F.2d 1146, (D.C. Cir. 1987).

When subpart I was originally promulgated in December 1989, EPA simultaneously granted reconsideration of subpart I based on information received late in the rulemaking on the subject of duplicative regulation by NRC and EPA of NRC-licensed facilities and on the potential negative effects of the standard on nuclear medicine. EPA established a comment period to receive further information on these subjects, and 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). That stay expired on March 15, 1990, and was subsequently extended on several occasions. (See 55 FR 10455, March 21, 1990; 55 FR 29205, July 18, 1990; and 55 FR 38057, September 17, 1990).

EPA later stayed subpart I for NRC and Agreement State licensees other than nuclear power reactors while EPA was collecting additional information necessary to make a determination under Section 112(d)(9) of the 1990 Clean Air Act Amendments. See 56 FR 18735 (April 24, 1991), and 40 CFR 61.109(a). However, on September 25, 1992, the D.C. Court of Appeals issued a decision that EPA had exceeded its authority by staying subpart I while EPA was collecting information needed to make a determination under Section 112(d)(9). *Natural Resources Defense Council* v. *Reilly*, 976 F.2d 36 (D.C. Cir. 1992). The stay for licensees other than nuclear power reactors expired before the NRDC decision could be implemented on November 15, 1992, and subpart I took effect for these licensees on November 16, 1992. EPA subsequently issued a notice confirming the effectiveness of subpart I for licensees other than nuclear power reactors. 59 FR 4228 (January 28, 1994).

B. Clean Air Act Amendments of 1990

In 1990, Congress enacted legislation comprehensively amending the Clean Air Act (CAA), which included a section addressing the issue of regulatory duplication between EPA and NRC. CAA Section 112(d)(9) 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 [section 112] 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 enables EPA to eliminate duplication of effort between EPA and NRC in instances where EPA can determine that the NRC program provides protection of public health equivalent to that required by the Clean Air Act.

The legislative history of Section 112(d)(9) provides clear guidance as to what is meant by "an ample margin of

safety to protect the public health," and what process the Administrator should follow in making that determination in a rulemaking proceeding under Section 112(d)(9). The Conference Report states that the "ample margin of safety" finding under Section 112(d)(9) is the same "ample margin of safety" that governed the development of standards promulgated under Section 112 prior to the 1990 amendments. The conferees also made it clear that the process the Administrator is expected to follow in making any such determination under Section 112(d)(9) is the process "required under the decision of the U.S. Court of Appeals in *NRDC* v. *EPA*, 824 F.2d 1146 (D.C. Cir 1987)(*Vinyl Chloride*)." H.R. Rep. 952, 101st Cong. 2d Sess. 339 (1990).

C. 1992 Proposal to Rescind Subpart I for Licensees Other Than Nuclear Power Reactors

After the adoption of Section 112(d)(9), EPA reviewed the information available to the Agency, including the information provided during the Agency's reconsideration of subpart I, to decide whether it could determine for particular categories of licensees that the NRC regulatory program protects public health with an ample margin of safety. EPA's initial analysis focused on two general issues: (1) Whether the NRC regulatory program in practice 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 the available information for licensees other than nuclear power reactors, EPA concluded that it lacked sufficient information concerning actual emissions from these facilities to make the substantive determination contemplated by Section 112(d)(9). Accordingly, EPA undertook an extensive study in order to determine the doses resulting from radionuclide emissions at these facilities. EPA surveyed a randomly selected subset of all licensed facilities, as well as a group of "targeted" facilities chosen because of an expectation that they would have higher emissions. See Background Information Document, "NESHAPs Rulemaking on Nuclear Regulatory Commission and Agreement State Licensees Other Than Nuclear Power Reactors" EPA430–R–92–011 (November 1992), included in the docket for this rulemaking.

EPA evaluated the results of its study of NRC and Agreement State licensees other than nuclear power reactors using the COMPLY computer program. None of the facilities evaluated appeared to cause a dose exceeding the 10 mrem/year level established by subpart I. When the results of the survey were statistically extrapolated to the entire population of NRC and Agreement State licensees, EPA concluded that virtually all of the facilities would cause doses to members of the public which are below 10 mrem/year.

After reviewing the then current NRC regulatory program, and considering the likely effect of revisions of the NRC program which were pending at that time and of additional measures which NRC had agreed to adopt pursuant to a Memorandum of Understanding with EPA, EPA proposed to rescind subpart I for NRC and Agreement State licensees other than nuclear power reactors on December 1, 1992. See 57 FR 56877 (December 1, 1992). It is that pending rulemaking proposal which is the subject of today's notice inviting supplementary comment.

II. Events Subsequent to the 1992 Proposal

A. Changes to NRC Regulatory Program After the 1992 Proposal

After the Agency published its 1992 proposal to rescind subpart I, major revisions to NRC's regulations at 10 CFR Part 20 became effective. The revised rule (effective January 1994) 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 (ICRP). In adopting the risk-based methodology, the NRC reduced the allowable dose limit for members of the public from 500 mrem/yr ede to 100 mrem/yr ede from all pathways. Of the 100 mrem/yr ede, NRC allows only 50 mrem/yr ede by the air pathway, according to their Derived Air Concentration tables, which is then subject to further reduction under the As Low As Reasonably Achievable (ALARA) provisions.

Another significant revision of Part 20 codified the ALARA principle, which previously was only general guidance for NRC licensees other than nuclear power reactors. All licensees must now conduct operations in a manner that keeps doses to both workers and members of the public "As Low as Reasonably Achievable" (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).

B. Memorandum of Understanding (MOU) Between EPA and NRC

In addition to promulgating the proposed changes to 10 CFR Part 20, NRC committed in a Memorandum of Understanding (MOU) executed on September 4, 1992 to take several additional actions to implement ALARA requirements for NRC licensees other than nuclear power reactors. This MOU was published on December 22, 1992, at 57 FR 60778.

Although the NRC regulatory program contained dose limits that were higher than those established by subpart I, the actual operation of the existing NRC program had resulted in lower doses to the public than those which would be allowed under subpart I. The steps established by the MOU reflected an expectation by EPA that new mandatory ALARA requirements would operate to constrain future increases in radionuclide emissions by NRC licensees which might otherwise be permissible under the NRC program. Under the provisions of the MOU, NRC agreed to develop and issue a regulatory guide on the design and implementation of a radiation protection program to ensure that doses resulting from effluents from licensed facilities would remain ALARA. NRC agreed that the guide would describe the types of administrative programs and objectives which would be considered acceptable in satisfying the requirements of 10 CFR 20.1101(b), and establish a specific design goal of 10 mrem/y ede to the maximally exposed individual for radionuclide air emissions from affected NRC and Agreement State licensees. NRC finalized Regulatory Guide 8.37, "ALARA Levels for Effluents from Materials Facilities," in July 1993.

C. EPA Concerns Regarding Basis for Required Statutory Finding Under Section 112(d)(9)

Based on the record compiled as part of its proposal to rescind subpart I for NRC licensees other than nuclear power reactors, EPA was able to conclude that the vast majority of NRC and Agreement State licensees were in compliance with the 10 mrem/yr standard established by

subpart I. However, after reviewing the language of the final Regulatory Guide issued by NRC pursuant to the September 4, 1992 MOU, EPA concluded that there was no element in the NRC regulatory program which expressly required or assured that licensees other than nuclear power reactors would maintain emissions below the 10 mrem/yr EPA standard. Thus, it was not possible for the Agency to determine that radionuclide emissions would consistently and predictably remain below the EPA standard in the future if EPA were to proceed with rescission, or that NRC or the individual Agreement States would be in a position to require a particular licensee who did exceed 10 mrem/yr to reduce radionuclide emissions.

Another concern regarding the adequacy of the NRC program to support rescission of subpart I for licensees other than nuclear power reactors arose as part of an investigation by the General Accounting Office (GAO) of NRC administration of the Agreement State program. Licenses for facilities other than nuclear power reactors are often administered by individual Agreement States rather than by NRC. In a report entitled "Nuclear Regulation: Better Criteria and Data Would Help Ensure Safety of Nuclear Materials," the GAO found that "NRC lacks criteria and data to evaluate the effectiveness of its two materials programs [agreement and non-agreement state]," and that "For agreement-state programs, NRC does not have specific criteria or procedures to determine when to suspend or revoke an inadequate or incompatible program." GAO/RCED–93–90 Nuclear Materials Regulation at 3 (April 1993). In subsequent Congressional testimony concerning the GAO findings, the NRC Commissioners acknowledged that NRC criteria and procedures should be improved, and stated that NRC was developing new criteria to assess the adequacy and compatibility of individual Agreement State programs, and new procedures which would govern suspension and termination of Agreement State programs.

As contemplated by CAA Section 112(d)(9), EPA and NRC entered into consultations intended to resolve these concerns. The ALARA program, which requires NRC licensees to reduce emissions to the extent feasible below the mandatory ceiling in 10 CFR Part 20, was the principal focus of subsequent discussions between EPA and NRC. In these discussions, EPA and NRC discussed various NRC proposals for a rule which would "constrain" emissions from NRC licensees other than nuclear power reactors, either by establishing a rebuttable presumption that emissions causing a dose exceeding 10 mrem/yr are not ALARA, or by expressly finding that ALARA requires licensees to maintain emissions at or below the 10 mrem/yr level. During the course of these discussions, a new concern also emerged as to whether the NRC policies on Agreement States which were under development would enable NRC to require that an ALARA "constraint level" be a mandatory element of compatibility. *See* letter from Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, to NRC Chairman Ivan Selin, July 6, 1994, included in the docket.

On July 22, 1994, NRC proposed a "constraint level" rule which would have required each licensee to develop an ALARA program to maintain or achieve emissions resulting in a dose at or below 10 mrem/year or, in the alternative, to "justify" a conclusion that emissions resulting in a dose exceeding 10 mrem/year are ALARA. *See* letter from NRC Chairman Ivan Selin to EPA Administrator Carol M. Browner, July 22, 1994, included in the docket. That correspondence also noted that new procedures to assure the adequacy and compatibility of Agreement States were under development, and indicated that NRC would also propose to require Agreement States to adopt the proposed "constraint level" rule as a matter of compatibility.

After reviewing the "constraint level" rule proposed by NRC on July 22, 1994, EPA concluded that the proposed provision permitting licensees to "justify" emissions in excess of 10 mrem/yr left uncertainty as to whether NRC or an individual Agreement State might accept or countenance as ALARA emissions resulting in a dose exceeding 10 mrem/year. As a consequence, EPA was concerned that it would still not be able to determine that future radionuclide emissions from affected licensees would be consistently and predictably at levels resulting in a dose below 10 mrem/yr, or that NRC or an individual Agreement State would be able to compel a licensee to reduce emissions if the 10 mrem/yr level were exceeded. EPA then advised NRC that EPA did not consider it prudent to proceed with rescission of subpart I for NRC licensees other than nuclear power reactors based on a record which might not adequately support the legal determination required by Section 112(d)(9).

D. NRC Proposals and Actions Responsive to EPA Concerns

On December 21, 1994, after further considering the concerns expressed by EPA, NRC proposed a "constraint" rule construing ALARA as requiring each licensee to limit emissions to a level resulting in a dose no greater than 10 mrem/yr. *See* letter from NRC Chairman Ivan Selin to EPA Administrator Carol M. Browner, December 21, 1994, included in the docket. Under this proposal, exceeding the ALARA constraint level would not itself be a violation, but any licensee exceeding the 10 mrem/yr constraint would be required to report the exceedance and to take corrective measures to prevent a recurrence. On March 14, 1995, NRC confirmed that it intended to make the proposed constraint rule a matter of Division Level 2 compatibility, which requires each Agreement State to incorporate in its program provisions at least as stringent as those established by the NRC rule. *See* letter from Robert M. Bernero, Director of the NRC Office Of Nuclear Material Safety and Safeguards, to Mary Nichols, EPA Assistant Administrator for Air and Radiation, March 14, 1995, included in the docket.

NRC has also taken steps which address concerns regarding the adequacy of criteria and procedures for the Agreement State program. NRC has published a draft policy statement concerning adequacy and compatibility criteria, 59 FR 37269 (July 21, 1994), and a draft policy statement setting forth procedures which permit suspension or termination of individual Agreement State programs. 59 FR 40059 (August 5, 1994). In the March 14, 1995 letter, NRC assured EPA that the final policy statement on compatibility criteria would be consistent with the NRC proposal to make the ALARA "constraint level" rule a matter of Division Level 2 compatibility, and that NRC intends to finalize both policy statements shortly.

After reviewing the proposed rule described in the December 21, 1994 letter and the additional assurances provided in the March 14, 1995 letter, EPA advised NRC that it had concluded that adoption by NRC of the proposals and policies set forth in these letters should be sufficient to resolve the Agency's stated concerns regarding its ability to make the finding required to support rescission under CAA Section 112(d)(9). *See* letter from EPA Administrator Carol M. Browner to NRC Chairman Ivan Selin, March 31, 1995, included in the docket. In that correspondence, EPA also stated its intent to publish this notice requesting

supplementary comment concerning the proposed rule to rescind subpart I for NRC licensees other than nuclear power reactors in conjunction with the publication by NRC of its proposed ALARA constraint rule.

EPA is today issuing this notice because NRC has committed to propose a rule to constrain air emissions from licensees other than nuclear power reactors to a level which would result in a dose of no more than 10 mrem/year. The decision by EPA to reaffirm its proposal to rescind Subpart I for these facilities is expressly contingent on this commitment by NRC to propose an ALARA "constraint level" rule and on the stated intention of NRC to require that Agreement States adopt equivalent provisions. A draft of the proposed "constraint level" rule is attached to the December 21, 1994 letter from NRC Chairman Selin to EPA Administrator Browner, which is included in the public docket and available upon request. In addition, NRC has advised EPA that it expects to publish a proposed "constraint level" rule shortly and that this NRC proposal will not differ in any material respect from the draft rule provided to EPA on December 21, 1994. Therefore, the initial EPA determination and request for comments set forth below are based on the December 21, 1994 draft of the NRC proposal.

III. Initial Determination Concerning Sufficiency of NRC Proposals and Actions to Support Rescission of Subpart I for Licensees Other Than Nuclear Power Reactors

From the language of section 112(d)(9), it is apparent that where EPA has already specifically determined what level of emissions must be achieved to provide an "ample margin of safety," that level is the benchmark by which EPA must evaluate the adequacy of the NRC program. EPA specifically found when it promulgated 40 CFR part 61, subpart I, that 10 mrem/yr would provide the requisite "ample margin of safety."

Section 112(d)(9) does not, however, require exact equivalence between the EPA and NRC programs applicable to a particular category of licensees before EPA may decline to regulate radionuclide emissions from that category. Rather, it requires that EPA conclude that implementation of the NRC program as a whole will achieve substantive protection of the public health equivalent to or better than that which would by achieved by enforcement of the EPA standard. Thus, if the NRC program as a whole will assure that emissions from all affected licensees remain below the EPA standard, the NRC program may be deemed to provide an ample margin of safety, regardless of whether this results from enforcement by NRC of a single numerical standard.

In deciding whether EPA may decline to regulate a particular category or subcategory of NRC or Agreement State licensees, EPA construes Section 112(d)(9) as requiring that EPA determine: (1) That emissions from NRC licensees (or Agreement State licensees when authority to regulate the licensees has been delegated by NRC) in that category or subcategory will be consistently and predictably at or below a level resulting in a dose of 10 mrem/year, and (2) that NRC (or the Agreement States) can and will require any individual licensee in that category or subcategory with emissions that cause a dose exceeding 10 mrem/year to reduce the emissions sufficiently that the dose will not exceed 10 mrem/year.

As explained above, EPA has concluded based on the information presented to date that radionuclide emissions from licensees other than nuclear power reactors under the current NRC program are generally well below the level that would result in a dose exceeding 10 mrem/yr. EPA experience in administration of subpart I since it became effective has tended to confirm this conclusion. Out of the thousands of licensees subject to the standard, only 16 facilities are presently reporting radionuclide emissions exceeding the EPA standard, and EPA expects that most of these reported violations will be resolved through EPA approval of adjustments in the COMPLY methodology for calculating doses.

EPA has concluded that the ALARA constraint rule and the other NRC proposals and policies described above, when adopted, will support the requisite determination for rescission under CAA Section 112(d)(9). Promulgation of the ALARA constraint rule will assure that radionuclide emissions by the affected licensees will be consistently and predictably below a level which would result in a dose exceeding 10 mrem/year, and that NRC can require an individual licensee who exceeds the 10 mrem/yr level to take corrective actions to reduce emissions. By making the ALARA constraint rule a matter of Division Level 2 compatibility, NRC will assure that those licensees regulated by individual Agreement States also will be subject to the 10 mrem/yr constraint level and will be required to report and correct any exceedances of that level. Finally, the final adoption by NRC of policy statements establishing specific criteria for adequacy and compatibility and adopting procedures for suspension or termination of Agreement State programs will resolve previous concerns regarding the ability of NRC to act if it determines that an Agreement State program is inadequate or incompatible.

Based on the above analysis, EPA is today making an initial determination that, if NRC adopts the proposals and policies described above, the NRC program will provide an ample margin of safety to protect the public health under CAA Section 112(d)(9). Based on this initial determination, EPA is also affirming its proposal to rescind subpart I for NRC and Agreement State licensees other than nuclear power reactors, and requesting further comment concerning the sufficiency of the proposed modifications of the NRC program to provide an ample margin of safety.

EPA will make a final determination under Section 112(d)(9) when it takes final action concerning the proposed rescission. EPA intends to take final action concerning its proposal to rescind subpart I for NRC and Agreement State licensees other than nuclear power reactors on or after the date that NRC takes final action on the proposed ALARA "constraint level" rule.

IV. Request for Comments

EPA invites additional comments concerning the following questions:

(1) If NRC adopts the proposed ALARA constraint level rule, will the resultant NRC regulatory program assure that routine radionuclide emissions from NRC licensees other than nuclear power reactors result in doses which are consistently and predictably no greater than 10 mrem/year ?

(2) If NRC adopts the proposed ALARA constraint level rule, will NRC have sufficient authority to require any affected facility with routine radionuclide emissions at a level which results in a dose exceeding 10 mrem/yr to reduce its emissions to a level resulting in a dose no greater than 10 mrem/yr?

(3) If NRC makes the proposed ALARA constraint level rule a matter of Division Level 2 compatibility, will this assure that each individual Agreement State establishes an ALARA constraint level for its licensees which is no greater than 10 mrem/yr, and requires its licensees to report and correct exceedances of that level?

(4) Are the NRC policies establishing criteria to evaluate the adequacy and compatibility of Agreement State programs, and adopting procedures to permit suspension or termination of Agreement State programs, sufficient to

enable NRC to take necessary action if it determines that an Agreement State program is inadequate or incompatible?

(5) Do these four actions, in addition to other actions taken by NRC combine to provide an ample margin of safety to protect public health?

EPA is not requesting further comments on the nature of current radionuclide emissions by facilities subject to subpart I, or any other issue not expressly addressed by this notice or the NRC proposals and policies on which it is based. EPA does not expect to respond to any specific comments which are outside the scope of this notice.

List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Radionuclides, Radon, Reporting and recordkeeping requirements, Uranium, Vinyl Chloride.

Dated: September 8, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95-24111 Filed 9-27-95; 8:45 am]

BILLING CODE 6560-50-P

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40 CFR Part 70

[AD-FRL-5305-4]

Clean Air Act Final Full Approval of Operating Permits Programs in Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is promulgating full approval of the operating permits programs submitted by the Oregon Department of Environmental Quality (ODEQ) and Lane Regional Air Pollution Authority (LRAPA) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In the final rules section of this Federal Register, EPA is approving the ODEQ and LRAPA Operating Permits Programs as a direct final rule without prior proposal because the Agency views this as a noncontroversial rule revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this notice.

DATES: Comments on this proposed rule must be received in writing by October 30, 1995.

ADDRESSES: Written comments should be addressed to David C. Bray, (AT-082), Air Compliance and Permitting Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule 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.

Copies of Oregon's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: David C. Bray, U.S. Environmental Protection Agency, 1200 Sixth Avenue, AT-082, Seattle, Washington 98101, (206) 553-4253.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: September 19, 1995.

Jane S. Moore,

Acting Regional Administrator.

[FR Doc. 95-24035 Filed 9-27-95; 8:45 am]

BILLING CODE 6560-50-P

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40 CFR Part 70

[AD-FRL-5300-3]

Clean Air Act Proposed Interim Approval Of Operating Permits Program; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action and proposed notice of correction.

SUMMARY: EPA is reproposing interim approval of one element of the State of Washington's title V air operating permits program. On November 9, 1994, EPA granted interim approval to Washington's operating permits program. 59 FR 55813 (November 9, 1994). One of the basis for granting Washington's program interim rather than full approval was that EPA determined that Washington's exemption for "insignificant emission units" exceeded the exemption authorized for such units under the Clean Air Act. A coalition of industries filed a petition for review of EPA's decision to condition full approval on changes to Washington's treatment of insignificant emission units. Upon EPA's request for a voluntary remand, the Court remanded this interim approval issue to EPA for reconsideration. EPA continues to believe that Washington has impermissibly expanded the exemption for insignificant emission units, but for somewhat different reasons, and therefore again proposes to condition full approval of the Washington operating permits program on changes to Washington's treatment of insignificant emission units.

EPA also proposes to approve a change to the jurisdiction of the Benton County Clean Air Authority.

Finally, EPA is proposing to correct the date for expiration of the interim approval and the due date of the required submission addressing the interim approval issues.

DATES: Comments on this proposed action must be received in writing by October 30, 1995.

ADDRESSES: Written comments should be addressed to: David C. Bray, Permits Program Manager, U.S. Environmental Protection Agency, Region 10, Air and Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's submittal and other information supporting this proposed action are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, Air & Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Permits Program Manager, Air and Radiation Branch (AT-082), U.S. Environmental Protection Agency, Region 10, Seattle, Washington, (206) 553-4253.

SUPPLEMENTARY INFORMATION

I. Background and Purpose

A. Introduction

As required under title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act ("the Act")), EPA has promulgated rules which define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July