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 twostep 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