

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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Dated: November 26, 1997.

Felicia Marcus,

Regional Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

RIN 2060-AE30

[FRL-5932-9]

Opportunity To Present Oral Testimony on EPA's Proposed Rule: "40 CFR Part 194, Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's (WIPP) Compliance With the 40 CFR Part 191 Disposal Regulations: Certification Decision;" Notice of Public Hearings

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Hearings.

SUMMARY: EPA will conduct public hearings to receive comments on the proposed certification decision, published October 30, 1997, for the Waste Isolation Pilot Plant (WIPP) in Carlsbad, Albuquerque, and Santa Fe, New Mexico.

DATES: The schedule for these hearings is as follows: Carlsbad, January 5, 1998, from 6:00 p.m. to 9:00 p.m. and January 6, 1998, from 9:00 a.m. to 4:00 p.m.; Albuquerque, January 7, 1998, from 12:00 Noon to 9:00 p.m. and January 8, 1998, from 9:00 a.m. to 12:00 Noon; and Santa Fe, January 8, 1998, from 3:00 p.m. to 9:00 p.m. and January 9, 1998, from 9:00 a.m. to 5:00 p.m. Procedures for these public hearings are detailed in the section entitled "Hearing Procedures" in **SUPPLEMENTARY INFORMATION**. Specific locations for each city is detailed in the section entitled **ADDRESSES**.

ADDRESSES: EPA's public hearings to accept comments on EPA's Proposed Compliance Certification Decision for the WIPP will be held on January 5-6, 1998, at the Pecos River Village Conference Center, Room #3, 711 Muscatel, Carlsbad, NM; on January 7-8 at the Albuquerque Convention Center, Aztec/Galisteo Room, 401 Second Street, NW, Albuquerque, NM;

on January 8-9, 1998, at the Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, NM.

EPA's official docket for all rulemaking activities under the Waste Isolation Pilot Plant Land Withdrawal Act, as amended, is located in Washington, DC, in the Air Docket, Room M1500, Mailcode 6102, U.S. EPA, 401 M Street, SW, Washington, DC 20460. Information on EPA's radioactive waste disposal standards (40 CFR Part 191), the compliance criteria (40 CFR Part 194), and DOE's compliance certification application is filed in the official EPA Air Docket, Dockets No. R-89-01, A-92-56, and A-93-02, respectively, and is available for review at the following three EPA WIPP docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Mon-Thu, 10-9, Fri-Sat, 10-6, and Sun 1-5; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Mon-Thu, 8-9, Fri, 8-5, Sat-Sun, 1-5; and in Santa Fe at the Fogelson Library, College of Santa Fe, Hours: Mon-Thu, 8-12 Midnight, Fri, 8-5, Sat, 9-5, and Sun, 1-9.

Note: The dockets in New Mexico only contain major items from the official Air docket in Washington, DC, plus all those documents added to the official docket since the October 1992 enactment of the WIPP LWA.

As provided in EPA's regulations at 40 CFR Part 2, and in accordance with normal Air docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Rafaela Ferguson, Office of Radiation and Indoor Air, (202) 564-9362 or call EPA's 24-hour toll-free WIPP Information Line, 1-800-331-WIPP.

SUPPLEMENTARY INFORMATION:

Background

On October 23, 1997, the Environmental Protection Agency (EPA) announced its proposed decision to issue to the Secretary of the Department of Energy (DOE) a "certification of compliance" for the Department of Energy's Waste Isolation Pilot Plant (WIPP), subject to several conditions related to: (1) waste characterization (to determine the radionuclides and other contents of waste disposal containers); (2) quality assurance programs at DOE waste generator sites; (3) implementation of passive institutional controls (PICs) (intended to warn future generations about the hazards of the radioactive waste buried in the WIPP); and (4) panel seals (used to contain the

waste within compartments in the facility). In addition, DOE is required to report to EPA any change in the activities or conditions at the WIPP that differ from those described in the Compliance Certification Application (CCA), and to immediately inform EPA of any activities or conditions at the WIPP that might cause the WIPP to exceed the containment requirements of the disposal regulations. This proposal, entitled "Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance with the 40 CFR Part 191 Disposal Regulations: Certification Decision; Proposed Rule," was published in the **Federal Register** at 62 FR 58791-58838 on October 30, 1997, which marked the start of a 120-day public comment period.

The WIPP is being constructed by DOE near Carlsbad, New Mexico, as a potential repository for the safe disposal of transuranic radioactive waste. Pursuant to the WIPP Land Withdrawal Act (WIPP LWA) of 1992, Pub. L. No. 102-579, as amended, EPA is required to perform several activities including certifying whether the WIPP will comply with EPA's radioactive waste disposal standards before DOE may commence disposal of radioactive waste at the WIPP. On October 29, 1996, DOE submitted a CCA containing information intended to demonstrate that WIPP will comply with the EPA's disposal regulations. EPA published an Advance Notice of Proposed Rulemaking (ANPRM) on November 15, 1996, announcing receipt of the CCA and requesting comments on all aspects of DOE's application for 120 days until March 17, 1997. EPA conducted a preliminary review of the CCA and requested DOE to submit supplemental information. DOE submitted the additional information EPA requested and on May 22, 1997, the Agency announced that DOE's application was deemed to be "complete" (62 FR 27996-27998). EPA's finding that the CCA was complete commenced a statutory one-year period to determine, by rulemaking, whether WIPP will comply with the disposal regulations (WIPP LWA, section 8(d)(2); 40 CFR 194.11).

EPA has conducted an extensive independent technical review and evaluation (including confirmatory audits and inspections) of the DOE's CCA and supplemental materials based on the requirements specified in the WIPP Compliance Criteria at 40 CFR Part 194. In response to public comments, EPA subsequently extended the ANPRM public comment period until publication of the proposed rule, thus resulting in an approximately 264-

day public comment period. All public comments received on or before August 8, 1997, were reviewed and considered as part of EPA's evaluation of the CCA. ANPRM comments received on or before August 8, 1997, were responded to in the Compliance Application Review Documents (CARs), which are part of the proposed certification decision. Comments received from August 8, 1997, to October 30, 1997, will be responded to with comments on the proposed rule.

DOE is developing the Waste Isolation Pilot Plant (WIPP) near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of transuranic (TRU) radioactive waste. As defined by the WIPP LWA, as amended, TRU wastes are materials containing elements having atomic numbers greater than 92, in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste, with half-lives greater than twenty years. Most TRU wastes are items contaminated during the production of nuclear weapons, e.g., rags, equipment, tools, and organic and inorganic sludges.

The WIPP LWA, as amended, specifies the terms and conditions for DOE's activities at the WIPP and the regulatory requirements which apply throughout various stages of the repository's development including the requirement that before beginning disposal of radioactive wastes at the WIPP, DOE must demonstrate that the WIPP will comply with the EPA's radioactive wastes disposal standards, "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes" (40 CFR Part 191).

Under the WIPP LWA, as amended, EPA is required to develop criteria for the Administrator's certification of compliance with the 40 CFR Part 191 disposal standards. EPA's final rule for the compliance criteria was published in the **Federal Register** on February 9, 1996, at 61 FR 5224-5245, approximately one year after proposal. On March 29, 1996, EPA issued the Compliance Application Guidance (CAG) which provided DOE with specific guidelines regarding the format and content of the compliance certification application and a clear description of the information that EPA would need to make its certification decision. The guidance provided in the CAG is within the framework established by 40 CFR Parts 194 and 191. On November 15, 1996, EPA published an ANPRM in the **Federal Register** at 61 FR 58499-58500, entitled "Decision to Certify Whether the Waste

Isolation Pilot Plant Complies With the 40 CFR Part 191 Disposal Regulations and the 40 CFR Part 194 Compliance Criteria."

If EPA finalizes the decision that the WIPP meets its radioactive waste disposal standards, then DOE may continue to take necessary steps required prior to emplacement of TRU wastes in the repository. Following the initial emplacement of TRU wastes in the facility and throughout its operational phase, DOE will be required to submit a re-certification application to EPA every five years throughout the operational phase of the disposal system. The Agency will review the applications and determine whether the WIPP remains in compliance with the disposal standards.

Hearing Procedures

Those persons wishing to present testimony at the public hearings are requested to pre-register by calling EPA's toll-free WIPP Information Line at 1-800-331-WIPP between the hours of 11:00 a.m. and 7:00 p.m. Eastern Standard Time (EST) with the following information: Name/Organizational Affiliation (if any)/address/hearing date, location, time(s) available to testify, and a daytime telephone number. In order to be guaranteed an opportunity to testify, requests must be received by EPA no later than 12:00 p.m. EST on December 30, 1997. Speakers not registered in advance may register at the door, if time slots are available. Individuals testifying on their own behalf will be allowed 5 minutes. One individual may testify as the official representative or spokesperson on behalf of groups and organizations and will be allocated 10 minutes for an oral presentation. Time allowed is exclusive of any time consumed by questions from the government panel and answers to these questions. Requests to testify at a second or possibly third location will be accommodated, to the extent possible, once pre-registration has been completed. Written comments will be considered to the same extent as oral testimony and will be included as part of the official hearings transcripts. The hearing transcript will constitute the official record of the hearing. All written comments which are submitted outside of the public hearings must be received by the HQ EPA Air Docket by February 27, 1998. These comments will also be given EPA's full consideration. Thus, all comments received by EPA, whether written or oral, will be given equal consideration in development of the final rule.

The public will be permitted to inspect and comment on any re-certification application.

Dated: December 3, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN 1018-AD98

Humane and Healthful Transport of Wild Mammals, Birds, Reptiles and Amphibians to the United States; Notice of Reopening of Comment Period and Scheduling of Public Meetings

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public meetings and reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Lacey Act Amendments of 1981, provides notice of the reopening of the comment period and the scheduling of two public meetings to receive input from the general public for the proposed amendment of 50 CFR part 14, covering the humane and healthful transport of wild mammals, birds, reptiles and amphibians to the United States. The comment period was extended to October 6, 1997 for this proposed rule and has, thus, closed. However, based on requests received, and in order to receive further input from the general public, the Service will reopen the comment period for a period of 30 days and hold two public meetings during that time. Therefore, additional written comments will be accepted during that time, and oral and written comments will be accepted at the public meetings.

DATES: A public meeting in New York City (Queens) will be held on January 17, 1998, from 1:00 pm-5:00 pm, and a public meeting in Los Angeles will be held on January 27, 1998, from 1:00 pm-5:00 pm. Comments in writing will be accepted by the Service beginning January 17, 1998, through February 17, 1998.

ADDRESSES: The public meeting in New York City will be held at St. John's University, Bent Hall Seminar Room, 8000 Utopia Parkway, Jamaica, NY 11439. The public meeting in Los