

DEPARTMENT OF DEFENSE**Department of the Air Force****32 CFR Part 806b**

[Air Force Instruction 37-132]

Air Force Privacy Act Program**AGENCY:** Department of the Air Force, DOD.**ACTION:** Proposed rule.

SUMMARY: The Department of the Air Force is proposing to add an exemption rule for a system of records notice F036 AF DP G, entitled 'Equal Opportunity and Treatment'. The exemption is intended to increase the value of the system of records for law enforcement purposes, to comply with prohibitions against the disclosure of certain kinds of information, and to protect the privacy of individuals identified in the system of records.

DATES: Comments must be received on or before December 17, 1999, to be considered by this agency.

ADDRESSES: Send comments to the Air Force Access Programs Manager, Headquarters, Air Force Communications and Information Center/ITC, 1250 Air Force Pentagon, Washington, DC 203301250.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 5886187.

SUPPLEMENTARY INFORMATION:**Executive Order 12866, 'Regulatory Planning and Review'**

It has been determined that 32 CFR part 321 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of \$100 million or more; or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or state, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96-354, 'Regulatory Flexibility Act' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96-511, 'Paperwork Reduction Act' (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

List of subjects in 32 CFR part 806b

Privacy.

Accordingly, 32 CFR part 806b is amended to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR Part 806b continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

2. Appendix C to Part 806b is proposed to be amended by adding paragraph (b)(21) as follows:

* * * * *

b. Specific exemptions. * * *

(21) *System identifier and name:* F036 AF DP G, Military Equal Opportunity and Treatment.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(d), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2)

(iv) *Reasons:* (1) From subsection (d) because access to the records contained in this system would inform the subject of an investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, and would present a serious impediment to law enforcement. In addition, granting individuals access to information collected while an Equal Opportunity and Treatment clarification/investigation is in progress conflicts with the just, thorough, and timely completion of the complaint, and could possibly enable individuals to interfere, obstruct, or mislead those clarifying/investigating the complaint.

(2) From subsection (e)(4)(H) because this system of records is exempt from individual access pursuant to subsection (k) of the Privacy Act of 1974.

(3) From subsection (f) because this system of records has been exempted

from the access provisions of subsection (d).

(4) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from this system will be made on a case-by-case basis.

Dated: October 8, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99-27069 Filed 10-15-99; 8:45 am]

BILLING CODE 5001-10-F

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 207-0183; FRL-6459-6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the California State Implementation Plan (SIP) originally proposed for a limited approval and limited disapproval in the **Federal Register**, 64 FR 13375, on March 18, 1999. The revision concerns a rule from the South Coast Air Quality Management District (SCAQMD). The rule controls emissions of oxides of nitrogen from stationary gas turbines. The intended effect of proposing approval of this rule is to regulate emissions of oxides of nitrogen (NO_x) in

accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the Federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

DATES: Comments on this proposed action must be received in writing on or before November 17, 1999.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revision and the administrative record for a previous EPA proposed action for this rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1160.

SUPPLEMENTARY INFORMATION:

I. Applicability

This **Federal Register** action for the SCAQMD excludes the Los Angeles County portion of the Southeast Desert Air Quality Management District, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997. The rule being proposed for approval into the California SIP is SCAQMD, Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines. This rule was submitted by the California Air

Resources Board (CARB) to EPA on March 10, 1998.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO_x emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_x Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO_x requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_x ("major" as defined in section 302 and sections 182 (c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. SCAQMD is classified as extreme¹; therefore this area is subject to the RACT requirements of section 182(b)(2) and the November 15, 1992 deadline cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_x) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_x CTGs issued before enactment and EPA has not issued a CTG document for any NO_x sources since enactment of the CAA. The RACT rules covering NO_x sources and submitted as SIP revisions are expected to require final installation of the actual NO_x controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for South Coast Air Quality Management District (SCAQMD) Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines Engines, adopted by the SCAQMD on August 8, 1997. The State

of California submitted this Rule 1134 to EPA on March 10, 1998. The rule was found to be complete on May 21, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V² and is being proposed for approval into the SIP.

NO_x emissions contribute to the production of ground level ozone and smog. This rule was submitted in response to EPA's 1988 SIP-Call and the CAA section 110(a)(2)(A) requirement that plans which are submitted to the EPA in order to achieve the National Ambient Air Quality Standards (NAAQS) contain enforceable emission limitations. A detailed discussion of the background for this rule and nonattainment area is provided in the proposed rulemaking cited above.

EPA has evaluated the above rule for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the proposed rulemaking cited above. EPA has found that the rule meets the applicable EPA requirements. The rule is enforceable and strengthens the applicable SIP. However, as noted in the proposed rulemaking cited above, it represents a relaxation of the existing SIP. On March 18, 1999, in 64 FR 13375, EPA proposed limited approval and limited disapproval of SCAQMD Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines into the California SIP. A detailed discussion of the rule provisions and evaluation has been provided in 64 FR 13375 and in a technical support document (TSD) dated February 11, 1999 available at EPA's Region IX office.

III. EPA Evaluation and Proposed Action

In determining the approvability of a NO_x rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO_x Supplement (57 FR 55620) and various other EPA policy guidance documents.³ Among those

² EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

³ Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC regulation Cutpoints,

¹ SCAQMD retained its designation of nonattainment and was classified by operation of law pursuant to 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

provisions is the requirement that a NO_x rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_x emissions.

For the purposes of assisting State and local agencies in developing NO_x RACT rules, EPA prepared the NO_x Supplement to the General Preamble. In the NO_x Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO_x emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_x (see section 4.5 of the NO_x Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO_x. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_x. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_x. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_x RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

The California Air Resources Board (CARB) developed a guidance document entitled Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for the Control of Oxides of Nitrogen from Stationary Gas Turbines. EPA has used CARB's guidance document, dated May 18, 1992, in evaluating Rule 1134 for consistency with the CAA's RACT requirements.

There is currently a November 1, 1996 version of South Coast Air Quality Management District (SCAQMD) Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines included in the SIP. The submitted rule includes the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO_x) and carbon monoxide (CO).
- Administrative and monitoring requirements including compliance

schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to RACT guidance regarding emission limits. Rule 1134 strengthens the SIP through the addition of enforceable measures such as record keeping, test methods, and definitions.

EPA has evaluated South Coast Air Quality Management District Rule 1134 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in a clearer, more enforceable rule.

In evaluating the rule, EPA must also determine whether the section 182(b) requirement for RACT implementation by May 31, 1995 is met. Under certain circumstances, the determination of what constitutes RACT can include consideration of advanced control technologies such as CARB BARCT requirements. As Rule 1134 requires all units to comply by December 31, 1995, EPA considers the May 31, 1995 deadline to have been met. EPA has further found that the amendment to Rule 1134 conforms with the CARB Determination of Reasonably Available Control Technology (RACT) and Best Available Retrofit Control Technology (BARCT) for Control of Oxides of Nitrogen from Stationary Gas Turbines dated May 18, 1992, and is therefore consistent with the CAA's RACT requirement.

EPA has evaluated South Coast Air Quality Management District Rule 1134 for consistency with the CAA, EPA regulations, and EPA policy and has found that although most of the modifications to SCAQMD Rule 1134 will strengthen the SIP, one modification relaxes the SIP.

Section (c)(1) of the rule raises the emission limit for one facility at Carson from 9 ppmv to 25 ppmv NO_x. The District has stated that no viable alternatives are evident that will enable this unit to achieve the existing Rule 1134 emission limit. The District estimated that this relaxation will result in increased emissions of approximately 46 tons per year of NO_x.

On March 18, 1999, in 64 FR 13375, EPA proposed a limited approval and limited disapproval of SCAQMD Rule

1134, because the district had failed to demonstrate that this relaxation complies with Section 110(l) of the Act.

A more detailed discussion of the basis for EPA's proposed action can be found in the Technical Support Document (TSD), dated February 11, 1999, which is available from the U.S. EPA, Region IX office.

EPA provided for a 30-day public comment period in 64 FR 13375 and a 30 day extension in 64 FR 24988. EPA received comments on the proposed rulemaking prior to the closing of the second comment period, from the County Sanitation District of Los Angeles County, South Coast Air Quality Management District, Sempra Energy, and Solar Turbines, Incorporated.

The County Sanitation District of L.A., submitted comments stated that they operate the sole facility, at Carson, CA, affected by the relaxation and that EPA's information was lacking many of the details of the effort that was conducted at this facility in an attempt to achieve the 9 ppmv NO_x emission level contained in the original Rule 1134. The Sanitation District asserted that the NO_x limits are not technologically feasible and they would forward the chronology of the activities undertaken involving this issue.

Commenter Solar Turbines, Incorporated, confirmed that low NO_x combustion controls are not as yet available from any supplier for use on low Btu digester gas.

They stated that improvement of the selective catalytic reduction (SCR) unit performance, which now only provides 20 percent NO_x reduction, is not technically feasible due to the ongoing siloxane poisoning of the SCR catalyst. The proposed amendment emissions limit of 25 ppmv NO_x is being achieved primarily via water injection.

The Sanitation District commenter suggested that EPA approve the revisions to Rule 1134 as all reasonable approaches have been tried and found technologically infeasible to achieve 9 ppmv NO_x emission level.

The Sanitation District supplied a summary of the chronological detail on all of the NO_x control related activities at the LACSD turbine facility and SCAQMD submitted comments in response to the CAA 110(l) requirement for achieving emission reductions, stating that the NO_x levels do not interfere with attainment, reasonable further progress, or other requirement of the Clean Air Act, as specified by section 110(l).

EPA reviewed all the material submitted during the comment period and agrees that LACSD has investigated

Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register Notice** (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

the currently available RACT approaches to lower the NO_x emissions from the LACSD facility. We understand that the limitation on the SCR performance is the lack of a method for removing silicon compounds from the digester gas. Such removal may or may not be possible in the future. Water scrubbing does not appear to be effective for removing siloxanes. However, similar units have had preliminary success using carbon bed filtration of the digester gas. SCAQMD and the affected source should continue investigating various siloxane removal methods, and SCAQMD should revise the rule when one is found.

Proposed Action

EPA is proposing action to approve the above rule for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA and in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of NO_x in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under E.O. 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior

consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to

issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and

advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 24, 1999.

Laura Yoshii,

Deputy, Regional Administrator, Region IX.
[FR Doc. 99-27141 Filed 10-15-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL-6459-5]

RIN 2060-AG85

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Rocky Flats Environmental Technology Site for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at Rocky Flats Environmental Technology Site (RFETS) proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents are entitled: (1) "Salt Residue Repack, Bldg. 371 and 707 Process Control Plan, RS-020-021, Rev.

000," (2) "Ash Residue Repack Project, Bldg. 707 Process Control Plan, RS-020-012, Rev. 000," (3) "Dry Residue Repackaging Process Control Plan, RS-020-013, Rev. 000," and "Combustible Residue Repackaging Process Control Plan, RS-020-018, Rev. 000." They are available for review in the public dockets listed in **ADDRESSES**. EPA will conduct an inspection of waste characterization systems and processes at RFETS to verify that the proposed systems and processes at RFETS can characterize transuranic waste in accordance with EPA's WIPP compliance criteria at 40 CFR 194.24. EPA will perform this inspection the week of November 15, 1999. This notice of the inspection and comment period accords with 40 CFR 194.8.

DATES: EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before November 17, 1999.

ADDRESSES: Comments should be submitted to: Docket No. A-98-49, Air Docket, Room M-1500 (LE-131), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The DOE documents are available for review in the official EPA Air Docket in Washington, DC, Docket No. A-98-49, Category II-A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday-Thursday, 10am-9pm, Friday-Saturday, 10am-6pm, and Sunday 1pm-5pm; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday-Friday, 9am-5pm.

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

FOR FURTHER INFORMATION CONTACT:

Scott Monroe, Office of Radiation and Indoor Air, (202) 564-9310 or call EPA's toll-free WIPP Information Line, 1-800-331-WIPP.

SUPPLEMENTARY INFORMATION:

Background

DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. No. 102-579), as amended (Pub. L. No. 104-201), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than

twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratory (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of Appendix A to 40 CFR part 194); and (2) prohibit shipment of TRU waste for disposal at WIPP from any site other than LANL until the EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of Appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8. As part of EPA's decision-making process, the DOE is required to submit to EPA appropriate documentation of quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, DC, and informational dockets in the State of New Mexico for public review and comment.

EPA approved the required quality assurance program at RFETS in March 1999. EPA also approved certain waste characterization processes at RFETS in March 1999 and June 1999. DOE is proposing to use additional nondestructive assay processes that EPA did not previously inspect at RFETS. EPA will conduct a inspection of RFETS to verify that the utilization of these additional processes as part of the system of controls for waste characterization complies with 40 CFR 194.24.

EPA has placed four documents pertinent to the inspection in the public docket described in **ADDRESSES**. The documents are entitled: (1) "Salt Residue Repack, Bldg. 371 and 707