

182(a)(2)), and must not relax existing requirements (*see* sections 110(l) and 193). The San Joaquin Valley Air Pollution Control District regulates an ozone nonattainment area (*see* 40 CFR part 81), so Rules 4603, 4604, and 4612 must fulfill RACT.

Guidance and policy documents that we use to help evaluate specific enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

4. "Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings," EPA-453/R-08-003, September 2008.

5. "Control Techniques Guidelines for Large Appliance Coatings," EPA-453/R-07-004, September 2007.

6. "Control Techniques Guidelines for Metal Furniture Coatings," EPA-453/R-07-005, September 2007.

7. "Control of Volatile Organic Emissions From Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008, May 1977.

8. "Reasonably Available Control Technology (RACT) Demonstration for Ozone State Implementation Plans (SIP)" SJVAPCD, April 16, 2009.

9. "Suggested Control Measure for Automotive Coatings," CARB, October 2005.

10. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

11. "State Implementation Plans, General Preamble for the Implementation of Title I of the Clean Air Amendments of 1990" 57 FR 13498, April 16, 1992.

12. "Preamble, Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard" 70 FR 71612; Nov. 29, 2005.

13. Letter from William T. Hartnett to Regional Air Division Directors, "RACT Qs & As—Reasonable Available Control Technology (RACT) Questions and Answers," May 18, 2006.

#### *B. Do the rules meet the evaluation criteria?*

We believe these rules are generally consistent with the relevant policy and

guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

#### *C. EPA recommendations to further improve the rule*

The TSDs describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rule.

#### *D. Public comment and final action*

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

### **III. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

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

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 2, 2009.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E9-14020 Filed 6-15-09; 8:45 am]

**BILLING CODE 6560-50-P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Parts 191 and 194**

**[EPA-HQ-OAR-2009-0330; FRL-8916-5]**

#### **Intent To Evaluate Whether the Waste Isolation Pilot Plant Continues To Comply With the Disposal Regulations and Compliance Criteria**

**AGENCY:** Environmental Protection Agency (EPA).

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

**SUMMARY:** The Environmental Protection Agency (EPA) intends to evaluate and recertify whether or not the Waste Isolation Pilot Plant (WIPP) continues to comply with EPA's environmental radiation protection standards for the disposal of radioactive waste. Pursuant to the 1992 WIPP Land Withdrawal Act (LWA), as amended, the U.S.

Department of Energy (“DOE” or “Department”) must submit to EPA documentation of continued compliance with EPA’s standards for disposal and other statutory requirements every five years after the initial receipt of transuranic waste at WIPP. EPA initially certified that WIPP met applicable regulatory requirements on May 18, 1998, and the first shipment of waste was received at WIPP on March 26, 1999. The first Compliance Recertification Application (CRA) was submitted by DOE to EPA on March 26, 2004, and the Agency’s first recertification decision was issued on March 29, 2006.

EPA will determine whether WIPP continues to comply with EPA’s standards for disposal based on the CRA submitted by the Secretary of Energy. DOE’s 2009 recertification application was received by the EPA on March 26, 2009, and a copy may be found on EPA’s WIPP Web site and in the public dockets (see the **SUPPLEMENTARY INFORMATION & FOR FURTHER INFORMATION CONTACT** sections). The Director of the Office of Radiation and Indoor Air will make a determination as to the completeness of the application in the near future (approximately six months) and will notify the Secretary, in writing, when the Agency deems the application “complete.” EPA will evaluate the “complete” application in determining whether the WIPP facility continues to comply with the radiation protection standards for disposal. The Agency requests public comment on all aspects of the DOE’s application.

**DATES:** We are accepting comments in response to today’s document and on DOE’s 2009 recertification application. The ending date of the public comment period will be specified in a subsequent **Federal Register** document.

Announcements will be published in the **Federal Register** to provide information on the Agency’s completeness determination and final recertification decision.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0330, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- *Fax*: 202–566–1741.
- *Mail*: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

*Instructions:* Direct your comments to Attn: Docket ID No. EPA–HQ–OAR–

2009–0330. The Agency’s policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

These documents are also available for review in electronic (CD/DVD) format at the Carlsbad Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday, 1 p.m.–5 p.m.,

phone number: 505–885–0731. 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:** Ray Lee, Office of Radiation and Indoor Air, Radiation Protection Division, Center for Radiation Information and Outreach, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; *telephone number*: 202–343–9463; *fax number*: 202–343–2305; *e-mail address*: [lee.raymond@epa.gov](mailto:lee.raymond@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

##### *A. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

## II. Background

The Waste Isolation Pilot Plant (WIPP) was authorized in 1980, under section 213 of the DOE National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96–164, 93 Stat. 1259, 1265), “for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States.” WIPP is a disposal system for transuranic (TRU) radioactive waste. Developed by DOE, the facility is located near Carlsbad in southeastern New Mexico. TRU waste is emplaced 2,150 feet underground in an ancient layer of salt that will eventually “creep” and encapsulate the waste containers. WIPP has a total capacity of 6.2 million cubic feet of TRU waste.

The 1992 WIPP Land Withdrawal Act (LWA; Pub. L. 102–579)<sup>1</sup> limits radioactive waste disposal in WIPP to TRU radioactive wastes generated by defense-related activities. TRU waste is defined as waste containing more than 100 nano-curies per gram of alpha-emitting radioactive isotopes, with half-lives greater than twenty years and atomic numbers greater than 92. The Act further stipulates that radioactive waste shall not be TRU waste if such waste also meets the definition of high-level radioactive waste, has been specifically exempted from regulation with the concurrence of the Administrator, or has been approved for an alternate method of disposal by the Nuclear Regulatory Commission. The TRU radioactive waste proposed for disposal in WIPP consists of materials such as rags, equipment, tools, protective gear, and sludges that have become contaminated during atomic energy defense activities. The radioactive component of TRU waste consists of man-made elements created during the process of nuclear fission, chiefly isotopes of plutonium. Some TRU waste is contaminated with hazardous wastes regulated under the Resource Conservation and Recovery Act (RCRA; 42 U.S.C. 6901–6992k). The waste proposed for disposal at WIPP derives from Federal facilities across the

United States, including locations in Colorado, Idaho, New Mexico, Nevada, Ohio, South Carolina, Tennessee, and Washington.

WIPP must meet EPA’s generic disposal standards at 40 CFR Part 191, Subparts B and C, for high-level and TRU radioactive waste. These standards limit releases of radioactive materials from disposal systems for radioactive waste, and require implementation of measures to provide confidence for compliance with the radiation release limits. Additionally, the regulations limit radiation doses to members of the public, and protect ground water resources by establishing maximum concentrations for radionuclides in ground water. To determine whether the WIPP facility performs well enough to meet these disposal standards, EPA issued the WIPP Compliance Criteria (40 CFR Part 194) in 1997. The Compliance Criteria interpret and implement the disposal standards specifically for the WIPP site. They describe what information DOE must provide and how EPA evaluates WIPP’s performance and provides ongoing independent oversight. Thus, EPA implemented its environmental radiation protection standards, 40 CFR Part 191, by applying the WIPP Compliance Criteria, 40 CFR Part 194, to the disposal of TRU radioactive waste at WIPP. For more information about 40 CFR part 191, refer to **Federal Register** notices published in 1985 (50 FR 38066–38089, Sep. 19, 1985) and 1993 (58 FR 66398–66416, Dec. 20, 1993). For more information about 40 CFR part 194, refer to **Federal Register** notices published in 1996 (61 FR 5224–5245, Feb. 9, 1996) and 1995 (60 FR 5766–5791, Jan. 30, 1995).

Using the process outlined in the WIPP Compliance Criteria, EPA determined on May 18, 1998 (63 FR 27354), that DOE had demonstrated that WIPP complied with EPA’s radioactive waste disposal regulations at Subparts B and C of 40 CFR Part 191. EPA’s certification determination permitted WIPP to begin accepting TRU waste for disposal, provided that other applicable conditions and environmental regulations were met.

Since the 1998 certification decision, EPA has conducted ongoing independent technical review and inspections of all WIPP activities related to compliance with the EPA’s disposal regulations. The initial certification decision identified the starting (baseline) conditions for the WIPP site and established the waste and facility characteristics necessary to ensure proper disposal in accordance with the regulations. At that time, EPA and DOE

understood that future information and knowledge gained from the actual operations of WIPP would result in changes to the best practices and procedures for the facility.

In recognition of this, section 8(f) of the amended WIPP LWA requires EPA to evaluate all changes in conditions or activities at WIPP every five years to determine if WIPP continues to comply with EPA’s disposal regulations for the facility. This determination is not subject to standard rulemaking procedures or judicial review, as stated in the aforementioned section of the WIPP LWA.

The first recertification process began with DOE’s submittal of the initial Compliance Recertification Application (CRA), which was received by the Agency on March 26, 2004. EPA deemed the CRA–2004 to be complete on September 29, 2005, and published its first WIPP recertification decision on March 29, 2006 (71 FR 18010).

EPA received DOE’s second CRA on March 24, 2009. The Agency will review DOE’s 2009 recertification application to ensure that all of the changes made at WIPP since the initial recertification process (which took place from 2004–2006) have been accurately reflected and that the facility will continue to safely contain TRU radioactive waste. If EPA approves the CRA–2009, it will set the parameters for how WIPP will be operated by DOE over the following five years. This approved application will then serve as the baseline for the next recertification that will occur starting in 2014.

Recertification is not a reconsideration of the decision to open WIPP, but a process to reaffirm that the facility meets all requirements of the disposal regulations. The recertification process will not be used to approve any new significant changes proposed by DOE; any such proposals will be addressed separately by EPA. Recertification will ensure that WIPP is operated using the most accurate and up-to-date information available and provides documentation requiring DOE to operate to these standards.

With today’s notice, the Agency solicits public comment period on DOE’s documentation of whether the WIPP facility continues to comply with the disposal regulations. A copy of the application is available for inspection on EPA’s WIPP Web site (<http://www.epa.gov/radiation/wipp>) and in the public dockets described in the **SUPPLEMENTARY INFORMATION** section. Other background information documents related to the Agency’s recertification activities also available in our public dockets and on our WIPP

<sup>1</sup> The 1992 WIPP Land Withdrawal Act was amended by the “Waste Isolation Pilot Plant Land Withdrawal Act Amendments,” which were part of the National Defense Authorization Act for Fiscal Year 1997.

Web site. EPA will evaluate the complete application in determining whether WIPP continues to comply with the radiation protection standards for disposal. In addition, EPA will consider public comment and other information relevant to WIPP's compliance. The Agency is most interested in public comment on any issues where changes have occurred that may potentially impact WIPP's ability to remain in compliance with the requirements outlined in EPA's disposal regulations, as well as any areas where the public believes that changes have occurred and have not been identified by DOE.

The first step in the recertification process is a "completeness" determination. EPA will make this completeness determination in the near future as a preliminary step in its more extensive technical review of the application. This determination will be made using a number of the Agency's WIPP-specific guidances; most notably, the "Compliance Application Guidance" (CAG; EPA Pub. 402-R-95-014) and "Guidance to the U.S. Department of Energy on Preparation for Recertification of the Waste Isolation Pilot Plant with 40 CFR Parts 191 and 194" (Docket A-98-49, Item II-B3-14; December 12, 2000). Both guidance documents include guidelines regarding: (1) Content of certification/recertification applications; (2) documentation and format requirements; (3) time frame and evaluation process; and (4) change reporting and modification. The Agency developed these guidance documents to assist DOE with the preparation of any compliance application for WIPP. They are also intended to assist in EPA's review of any application for completeness and to enhance the readability and accessibility of the application for EPA and public scrutiny. It is EPA's intent that these guidance documents give DOE and the public a general understanding of the information that is expected to be included in a complete application of compliance. The EPA may request additional information as necessary from DOE to ensure the completeness of the CRA.

Once the 2009 recertification application is deemed complete, EPA will provide DOE with written notification of its completeness determination and publish a **Federal Register** notice announcing this determination as well. All correspondence between EPA and DOE regarding the completeness of the CRA-2009 will be placed in the public docket.

EPA will make a final decision recertifying whether the WIPP facility continues to meet the disposal regulations after each of the aforementioned steps (technical analysis of the application, issuing a notice of the CRA-2009's completeness in the **Federal Register**, and analyzing public comment) have been completed. As required by the WIPP LWA, EPA will make a final recertification decision within six months of issuing its completeness determination.

#### List of Subjects in 40 CFR Parts 191 and 194

Environmental protection, Radiation protection, Transuranic radioactive waste, Waste treatment and disposal, Waste Isolation Pilot Plant.

Dated: June 3, 2009.

Elizabeth Cotsworth,

Director, Office of Radiation and Indoor Air.

[FR Doc. E9-14023 Filed 6-15-09; 8:45 am]

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### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 64

[CG Docket 03-123; DA 09-1255]

#### Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** In this document, the Commission via the Consumer and Governmental Affairs Bureau (Bureau) extends the comment filing deadline for the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** May 21, 2009 (73 FR 23815). The Bureau finds that in this case an extension of the comment period is warranted to afford parties the necessary time to file comments that will result in a more complete record in this proceeding.

**DATES:** Comments are due July 6, 2009. Reply Comments are due July 20, 2009.

**ADDRESSES:** Interested parties may submit comments identified by CG Docket No. 03-123, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting electronic filings.
- *Federal Communications Commission's Electronic Comment*

*Filing System (ECFS):* <http://www.fcc.gov/cgb/ecfs>. Follow the instructions for submitting electronic filings.

- By filing paper copies.

For electronic filers through ECFS or the Federal eRulemaking Portal, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and CG Docket No. 03-123. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in response.

**Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). DA 09-1255 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.html>.

**FOR FURTHER INFORMATION CONTACT:** Thomas Chandler, Consumer and