

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 194**

[FRL-5954-7]

RIN 2060-AE30

**Opportunity to Comment on EPA's Analysis of Air Drilling as it Relates to EPA's Proposed Rule: "40 CFR Part 194, Criteria for the Certification and Re-certification of the Waste Isolation Pilot Plant's (WIPP) Compliance with the 40 CFR Part 191 Disposal Regulations: Certification Decision"**

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the availability of EPA's analysis of the practice of air drilling during petroleum exploration and its impact on the ability of the Waste Isolation Pilot Plant to contain radioactive waste within federal environmental and public health limits. EPA's analysis of air drilling is now available for review in the public dockets listed in **ADDRESSES**.

**DATES:** EPA is requesting public comment on EPA's review of air drilling. Comments must be received by EPA's official docket on or before February 27, 1998.

**ADDRESSES:** 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 EPA's proposed decision to certify WIPP 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 contain only 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 Land Withdrawal Act, Pub. L. No. 102-579 (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:** Tom Peake, Office of Radiation and Indoor Air, (202) 564-9310 or call EPA's 24-hour toll-free WIPP Information Line, 1-800-331-WIPP.

**SUPPLEMENTARY INFORMATION:****Background**

The Department of Energy (DOE) is developing the Waste Isolation Pilot Plant (WIPP) near Carlsbad in southeastern New Mexico as a potential deep geologic repository for disposal of transuranic (TRU) radioactive waste. As defined by the WIPP LWA, as amended, 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. Most TRU waste consists of items contaminated during the production of nuclear weapons, e.g., rags, equipment, tools, and organic and inorganic sludges.

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" that the WIPP will comply with EPA's radioactive waste disposal standards at 40 CFR part 191, 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. EPA's proposed decision to certify WIPP is based on 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.

The public has raised air drilling for petroleum exploration as a potential scenario that should have been considered by the DOE in its submission of the Certification Compliance Application CCA. In the CCA, DOE assumes that mud is the fluid used in conjunction with drilling for resources. EPA has received comments indicating that the use of air (instead of mud) is a drilling technique that should be considered in the performance of the WIPP. EPA has analyzed the potential for air drilling, and the potential impacts that air drilling could have on the performance of the WIPP. This analysis is now available for public review in EPA's dockets.

The Agency concludes from its analysis of the impacts of air drilling that no adverse consequences would result on the ability of the WIPP site to meet the Agency radioactive waste disposal standards at 40 CFR 191. Therefore, the Agency's proposed decision of October 23, 1997, to issue the DOE a certification of compliance remains unchanged.

Dated: January 21, 1998.

**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 17**

RIN 1018-AE53

**Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Erigeron decumbens* var. *decumbens* (Willamette Daisy) and Fender's Blue Butterfly (*Icaricia icarioides fenderi*) and Proposed Threatened Status for *Lupinus sulphureus* ssp. *kincaidii* (Kincaid's lupine)**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.