

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 194**

[FRL-6114-5]

RIN 2060-AG85

Quality Assurance and Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Idaho National Environmental and Engineering Laboratory Proposed 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 on quality assurance and waste characterization programs applicable to transuranic (TRU) radioactive waste at the Idaho National Environmental and Engineering Laboratory (INEEL) proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents include: "Idaho National Environmental and Engineering Laboratory Quality Assurance Project Plan For The Transuranic Waste Characterization Program" (dated August 31, 1997), "Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste" (dated October 1997), and "INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan" (dated December 1997). These documents are available for review in the public docket listed in **ADDRESSES**. The EPA will use these documents to evaluate INEEL's quality assurance and waste characterization programs and processes for compliance with the WIPP compliance criteria. The EPA will conduct a review at DOE's Carlsbad Area Office the week of July 6, 1998, to verify the proper establishment of applicable nuclear quality assurance (QA) requirements and QA procedures of INEEL, and to review documents regarding the capability of INEEL to properly perform waste characterization. The EPA will perform an inspection at INEEL the week of July 27, 1998, for the purpose of evaluating the implementation of these programs. This notice of the inspection and comment period accords with the EPA's WIPP compliance criteria at 40 CFR Part 194.

DATES: The EPA is requesting public comment on these documents. Comments must be received by the EPA's official Air Docket on or before July 24, 1998.

ADDRESSES: Comments should be submitted to: Docket No. A-93-02, Air Docket, Room M-1500 (LE-131), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The DOE documents, "Idaho National Environmental and Engineering Laboratory Quality Assurance Project Plan For The Transuranic Waste Characterization Program" (dated August 31, 1997), "Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste" (dated October, 1997), and "INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan" (dated December 1997), are available for review in the official EPA Air Docket in Washington, D.C., Docket No. A-93-02, Category X-B, 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: Monday-Thursday, 8am-9pm, Friday, 8am-5pm, Saturday-Sunday, 1pm-5pm; and in Santa Fe at the Fogelson Library, College of Santa Fe, Hours: Monday-Thursday, 8am-12pm, Friday, 8am-5pm, Saturday, 9am-5pm, and Sunday, 1pm-9pm.

As provided in the 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: Chuck Byrum, Office of Radiation and Indoor Air, (505) 665-7555, or call the EPA's 24-hour toll-free WIPP Information Line, 1-800-331-WIPP.

SUPPLEMENTARY INFORMATION:**Background**

The 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. Most TRU waste consists of items

contaminated during the production of nuclear weapons, such as rags, equipment, tools, and organic and inorganic sludges.

On May 13, 1998, the EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision states that the WIPP will comply with the 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 § 194.24(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 the EPA's decision-making process, the DOE is required to submit to the 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, the EPA will place such documentation in the official Air Docket in Washington, D.C., and informational dockets in the State of New Mexico for public review and comment.

The documents submitted to the EPA for INEEL are: "Idaho National Environmental and Engineering Laboratory Quality Assurance Project Plan For The Transuranic Waste Characterization Program" (dated August 31, 1997), "Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste," (dated October, 1997), and "INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan," (dated December 1997). The "Idaho National Environmental and Engineering Laboratory Quality Assurance Project Plan For The Transuranic Waste Characterization Program" sets forth the waste characterization procedures for TRU wastes at INEEL. The "Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste" sets forth the

procedures to certify contact-handled stored TRU waste. The "INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan" sets forth the quality assurance program that the DOE purports to comply with the requirements of § 194.22. After the EPA reviews these documents for adequacy, the EPA will conduct an inspection of a DOE audit of the site to determine whether the requirements set out in these documents are being adequately implemented in accordance with Conditions 2 and 3 of the EPA's WIPP certification decision (Appendix A to 40 CFR Part 194). In accordance with § 194.8 of the WIPP compliance criteria, the EPA is providing the public 30 days to comment on the documents placed in the EPA's docket relevant to the site approval process.

If the EPA determines that the provisions in the documents are adequately implemented, the EPA will notify the DOE by letter and place the letter in the official Air Docket in Washington, D.C., and in the informational docket locations in New Mexico. A positive approval letter will allow the DOE to begin shipping TRU waste from INEEL. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the EPA's radioactive waste disposal standards (40 CFR Part 191), the compliance criteria (40 CFR Part 194), and the EPA's certification decision 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 in Washington, D.C., and at the three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, D.C., plus those documents added to the official Air Docket after the October 1992 enactment of the WIPP LWA.

Dated: June 16, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPPTS-62155; FRL-5762-3]

Asbestos-Containing Materials in Schools; State Request for Waiver from Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed waiver.

SUMMARY: EPA has received from the Commonwealth of Massachusetts a request for a waiver from the requirements of 40 CFR part 763, subpart E, Asbestos-Containing Materials in Schools regulations. This document announces an opportunity for public review and comment on the Massachusetts waiver request.

DATES: Comments on the waiver request must be received by July 24, 1998.

ADDRESSES: Written comments must be sent in triplicate, identified by the docket control number OPPTS-62155 to: James M. Bryson, Regional Abatement Coordinator, Environmental Protection Agency, Office of Ecosystem Protection, CPT Region 1, John F. Kennedy Federal Building, Boston, MA 02203-0001. Copies of the Massachusetts waiver request are on file and may be reviewed at the EPA Region I Office.

Comments and data may also be submitted electronically to bryson.jamesm@epamail.epa.gov. Follow the instructions under SUPPLEMENTARY INFORMATION of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: James M. Bryson at 617-565-3836.

SUPPLEMENTARY INFORMATION: This document is issued under the authority of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2641, *et seq.* TSCA Title II was enacted as part of the Asbestos Hazard Emergency Response Act (AHERA), Pub. L. 99-519. AHERA is the name commonly used to refer to the statutory authority for EPA's rules affecting asbestos in schools. For purposes of this document, EPA will use the AHERA designation.

In the **Federal Register** of October 30, 1987 (52 FR 41946), EPA issued a final rule as required in AHERA, the Asbestos-Containing Materials in Schools Rule (40 CFR part 763, subpart E), which requires all Local Education Agencies (LEAs) to identify Asbestos-Containing Building Materials (ACBMs) in their school buildings and to take appropriate actions to control the release of asbestos fibers. The LEAs are required to describe their asbestos control activities in management plans, which must be available to all concerned persons and submitted to the State Governor's Designee. The rule requires LEAs to use specially trained and accredited persons to conduct inspections for asbestos, develop management plans, and design and conduct actions to control asbestos. The recordkeeping and reporting burden associated with waiver requests was approved under OMB control number 2070-0091. This document merely announces the Agency's receipt of a waiver request and therefore, imposes no additional burden beyond that which was covered under existing OMB control number 2070-0091. Send any comments regarding the burden estimate or any other aspect of this collection to Chief, Information Policy Branch (2136), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, "Attention: Desk Officer."

Under section 203 of AHERA, EPA may, upon request of a State Governor and after notice and comment and opportunity for a public hearing in the State, waive in whole or in part the requirements of the rule promulgated under section 203, if the State has established and is implementing or intends to implement a program of asbestos inspection and management which is at least as stringent as the requirements of 40 CFR part 763, subpart E. The AHERA rule requires that specific information be included in a waiver request. The rule establishes a process for EPA to review waiver requests, and sets forth procedures for