

Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material you claimed to be CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

### C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking Region 5 Air Docket "R05-OAR-2004-IN-0005" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

## II. What Actions Are EPA Taking Today?

The EPA is proposing to approve a revision to the Indiana SIP submitted by the State which continues to serve as a tool to reduce emissions of CO and PM from incinerators in the State in order for the State to continue to protect the health of the people of Indiana.

1. *Submitting CBI.* Do not submit this information to EPA through RME, 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:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- b. 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.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.
- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of vulgarity or personal threats.
- h. Make sure to submit your comments by the comment period deadline identified.

### III. Additional Information

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available electronically at RME or in hard copy at the above address. (Please telephone John Paskevicz at (312) 886-6084 before visiting the Region 5 Office.)

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

Dated: November 3, 2004.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 04-26400 Filed 11-29-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 194

[FRL-7844-4]

### Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Hanford 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, we or Agency) is announcing the availability of and soliciting public comment for 30 days on, Department of Energy (DOE) documents applicable to the characterization of transuranic (TRU) radioactive solid waste from the Plutonium Finishing Plant (PFP) at the Hanford site. The documents are available for review in the public dockets listed in **SUPPLEMENTARY INFORMATION**. EPA is issuing this notice because the Agency must conduct an expedited review of one of the elements of Hanford's waste characterization (WC) processes, known as acceptable knowledge (AK). In June 2003, EPA conducted an inspection at Hanford, pursuant to 40 CFR 194.8, to evaluate the WC processes used for characterizing PFP solid waste. However, at that time, EPA did not examine the AK process for the same waste. In August 2003, EPA approved all WC components except AK for characterizing the PFP solid waste and noted in the approval letter that the PFP solid waste may not be disposed of at the WIPP because EPA had not examined and approved the AK process. In the absence of the EPA approval of this waste, however, in July 2004, the Department of Energy (DOE) mistakenly certified this waste stream as eligible for disposal at WIPP. As a result, 600 drums of PFP solids were emplaced in the WIPP repository between July and September 2004. Early in September 2004, the DOE discovered this error and immediately suspended the shipment of the PFP solids from Hanford. To meet the Agency's regulatory obligations EPA must conduct an "after-the-fact" review of the AK process to determine adequacy of the AK documentation. Therefore, EPA will conduct an evaluation of AK documents and, as needed, telephone interviews with site personnel specific to the PFP solids to determine Hanford's compliance with EPA's WIPP compliance criteria and ensure that the emplacement of this waste has no adverse effect on WIPP's performance. EPA's evaluation may lead to an approval at which time the site could resume shipment of the PFP solid waste to WIPP for disposal. EPA does not believe that the PFP solid wastes improperly emplaced at WIPP constitute a threat to human health, to the environment or to the long-term performance of the WIPP repository. Based on this determination, the Hanford PFP solid waste may remain in WIPP while EPA undertakes a desk-top review of the AK information.

**DATES:** EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before December 30, 2004.

**ADDRESSES:** Comments may be submitted by mail to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR-2004-0477. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rajani D. Joglekar, Office of Radiation and Indoor Air, (202) 343-9462. You can also call EPA's toll-free WIPP Information Line, 1-800-331-WIPP or visit our Web site at <http://www.epa.gov/radiation/wipp>.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

**A. How Can I Get Copies of This Document and Other Related Information?**

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OAR-2004-0477. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 paper form at 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, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday, 1 p.m.–5 p.m.; 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, 9 a.m.–5 p.m. 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.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA

identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

**B. How and To Whom Do I Submit Comments?**

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. However, late comments may be considered if time permits.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. OAR-2004-0477. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov), Attention Docket ID No. OAR-2004-0477. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

2. *By Mail.* Send your comments to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR-2004-0477.

3. *By Hand Delivery or Courier.* Deliver your comments to: Air and Radiation Docket, EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OAR-2004-0477. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.A.1.

4. *By Facsimile.* Fax your comments to: (202) 566-1741, Attention Docket ID No. OAR-2004-0477.

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

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

### II. Background

DOE operates 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. 102-579), as amended (Pub. L. 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 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 WC 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 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). 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 WC 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.

In June 2003, EPA inspected Hanford's WC processes used when characterizing PFP solid waste. During this inspection, however, EPA did not examine the acceptable knowledge (AK) process. EPA inspected the other components of the system of controls (radioassay, radiography, visual examination, and WIPP Waste Information System) implemented by Hanford to demonstrate to EPA and DOE the adequacy of its TRU waste characterization program. In an August 7, 2003, letter to the Carlsbad Field Office (CBFO), EPA approved Hanford's TRU debris waste from the Waste Receiving and Processing Plant and PFP characterized using the approved systems and processes covered in the June 2003 Inspection Report. In the letter, EPA specifically stated that "EPA has not approved acceptable knowledge for TRU solids, specifically ash and mixed oxides, characterized at the PFP facility. As a result, DOE may not dispose at the WIPP any ash and mixed oxides from the PFP facility."

EPA recently discovered that between July 25 and September 4, 2004, DOE had shipped and emplaced in the WIPP approximately 1,500 drums of PFP solid waste (ash) and mixed oxides from Hanford. The emplacement of the PFP solid waste drums at the WIPP repository was based on a DOE certification letter to Hanford, dated July 14, 2004. The DOE certification letter did not reflect EPA's restriction on disposal of Hanford's PFP solid waste stream. This restriction was based on the fact that EPA had not fully evaluated, nor approved, AK documentation as part of the waste characterization for these solid wastes. Under our regulations, without EPA approval, DOE cannot certify any waste from TRU waste sites for disposal at the WIPP. Thus, CBFO's certification of Hanford PFP solids for disposal at WIPP conflicts with EPA's site approval and violates EPA regulations at 40 CFR 194.8 and 24. DOE has voluntarily suspended further PFP solid waste shipments from Hanford to WIPP and has agreed to take steps to identify the cause of the error and prevent recurrence. Nevertheless, significant quantities of this waste have already been emplaced at WIPP. EPA must

assess the AK process to comply with the requirements of 40 CFR part 194, section 24. EPA does not believe that the PFP solid wastes improperly emplaced at WIPP constitute a threat to human health, to the environment or to the long-term performance of the WIPP repository. Based on this determination, the Hanford PFP solid waste will remain in WIPP while EPA undertakes a desk-top review of the AK information for the PFP solid wastes.

With regard to mixed oxides, DOE has clarified that these materials are properly categorized as debris waste rather than as part of the PFP solid waste stream. Based on documentation provided by the DOE, we concur in this determination. The 900 drums of mixed oxides were fully characterized using the procedures approved by EPA for debris waste (S5000) in our August 7, 2003, letter. Therefore, we find their characterization is adequate and no further action is needed to confirm that their placement in the WIPP is allowed. For the remaining 600 drums of ash belonging to the solid waste stream, further evaluation is needed to assess the adequacy of waste characterization processes. Until EPA completes its review of the AK process for Hanford PFP solids and, if warranted, approves the subject waste stream (S3000) for disposal at the WIPP, the Agency has directed DOE not to resume shipment of the remaining TRU solid waste containers from the Hanford PFP.

In most cases, EPA's inspections are conducted through on-site inspections in which the operation of WC equipment and processes can be demonstrated. However, the evaluation of AK relies almost exclusively on a review of documentation. Thus, while such review is often conducted on-site (for convenience, in conjunction with other on-site evaluations), it can be conducted at a remote location with equal ease and rigor. This is especially true for AK related to Hanford PFP solids. Hanford has not relied on the AK information for physical and radiological characterization of the PFP solids; the site relied exclusively on spectroscopic systems to establish isotopic ratios. (Isotopic ratios are sometime used to estimate individual radionuclides when the equipment is not able to quantify them.) Because AK information for the waste was not used to derive or extrapolate WC data tracked for the waste, we expect little linkage with other WC procedures, so there is no need to conduct an on-site inspection. By thorough inspection of the AK documents we can determine adequacy, completeness, sufficiency,

and appropriateness of the AK used for waste characterization.

For this inspection, EPA will conduct a desk-top review of the most recent versions of the AK documents applicable to the Hanford PFP solid waste that were used by the DOE auditors in June 2003. As necessary, EPA will interview by phone the relevant experts at Hanford PFP. Evaluation of the AK documentation pertaining to the PFP solids will be limited to verification of the waste pedigree—defense determination, S3000 waste category determination, absence of liquids confirmation, and classification as TRU waste. This evaluation will allow sufficient evaluation of the adequacy, completeness, and effectiveness of the applicable AK process.

Through this **Federal Register** notice, EPA is notifying the public that EPA will evaluate Hanford's AK process and procedure specific to the PFP solid waste. EPA will perform an inspection of Hanford's AK process for the PFP solid waste in accordance with Condition 3 of the WIPP Certification. If EPA determines as a result of the evaluation that the AK documentation is adequate and is well supported by the radioassay, radiography, and visual examination results, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to leave waste in WIPP underground panels and to resume disposal of the remaining PFP solid waste characterized by the approved processes from Hanford to WIPP. EPA will not make a determination of compliance prior to completing its AK documentation audit or before the 30-day comment period has closed. We have separately directed DOE by letter what measures or restrictions are necessary to prevent recurrence of such violations of EPA's site-specific waste characterization requirements. This letter is available in Docket A-98-49 (Washington, DC, and our three locations in New Mexico), as well as online at the EDOCKET Web site (<http://www.epa.gov/edocket>) in Docket ID No. OAR-2004-0477.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A-93-02 and is available for review in Washington, DC, and at 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, DC, plus those documents added to the official Air

Docket since the October 1992 enactment of the WIPP LWA.

Dated: November 23, 2004.

**Robert Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 04-26480 Filed 11-29-04; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 27

[WT Docket No. 04-356; WT Docket No. 02-353; FCC 04-218]

### Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2175-2180 MHz and 1.7 GHz and 2.1 GHz Bands

**AGENCY:** Federal Communications Commission.

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

**SUMMARY:** In this document, the Wireless Telecommunications Bureau extends the period for comment and reply comment on the Notice of Proposed Rulemaking in this proceeding. The deadline to file comments is extended from November 23, 2004, to December 8, 2004, and the deadline to file reply comments is extended from January 7, 2005, to January 24, 2005. The action is taken to respond to two Motions for Extension of Time.

**DATES:** Comments due December 8, 2004; reply comments due January 24, 2005. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before December 8, 2004.

**ADDRESSES:** In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov), and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 via the Internet to [Kristy.L.LaLonde@omb.eop.gov](mailto:Kristy.L.LaLonde@omb.eop.gov), or via fax at 202-395-5167.

**FOR FURTHER INFORMATION CONTACT:** Peter Corea at 202-418-2487. For additional information concerning the