

these budgets through the conformity web process. We will address all comments in our final rulemaking on the revisions to West Virginia's maintenance plan. Because the final rule on the revised maintenance plan will promulgate our final determination regarding both the approvability and adequacy of the SIP's MVEBs, we will not publish a separate **Federal Register** notice announcing our adequacy findings.

EPA is proposing to approve the September 25, 2001 SIP revision to West Virginia's 1-hour ozone maintenance plan for the Huntington-Ashland area. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its SIP. If the state's proposed revision is substantially changed in areas other than those identified in this notice, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this notice, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by West Virginia and submitted formally to EPA for incorporation into the SIP.

#### IV. Proposed Action

EPA is proposing to approve the revisions to West Virginia's 1-hour ozone maintenance plan for the Huntington-Ashland area submitted by the WVDEP on September 25, 2001.

#### V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law.

Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

This rulemaking proposing approval of revisions to West Virginia's 1-hour ozone maintenance plan for the Huntington-Ashland area does not

impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone.

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

Dated: November 16, 2001.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 194

[FRL-7108-3]

**RIN 2060-AG85**

#### Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Savannah River 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, or "we") 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 the Savannah River Site proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents are entitled: "Savannah River Site WIPP Disposal Program Quality Assurance Project Plan, WSRC-RP-99-01097"; "Savannah River Site WIPP Disposal Program Quality Assurance Program Document, WSRC-RP-99-01119"; and "Savannah River Site WIPP Disposal Program Waste Certification Plan, WSRC-RP-99-01095." They are available for review in the public dockets listed in **ADDRESSES**. We will conduct an inspection of waste characterization systems and processes and the quality assurance program for waste characterization at the Savannah River Site to verify that the site can characterize transuranic debris waste in accordance with EPA's WIPP compliance criteria. We will perform this inspection during the week of December 10, 2001. This notice of the inspection and comment period accords with 40 CFR 194.8.

**DATES:** EPA requests public comment on the documents. Comments must be received by EPA's official Air Docket on or before December 27, 2001.

**ADDRESSES:** Comments should be submitted to: Docket No. A-98-49, Air Docket, Room M-1500, U.S. Environmental Protection Agency, 401 M Street, SW., Mail Code 6102, 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, 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. Air Docket A-98-49 in Washington, DC, accepts comments sent electronically or by fax (fax: 202-260-4400; e-mail: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov)).

**FOR FURTHER INFORMATION CONTACT:** Ed Feltcorn, Office of Radiation and Indoor Air, (202) 564-9422. You can also call EPA's toll-free WIPP Information Line, 1-800-331-WIPP or visit our website at <http://www.epa.gov/radiation/wipp>.

**SUPPLEMENTARY INFORMATION:**

**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. 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, we announced our 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 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 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 our 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, we 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 will perform an inspection of the Savannah River Site's technical and quality assurance programs for waste characterization in accordance with Conditions 2 and 3 of the WIPP certification. The inspection is scheduled to take place the week of December 10, 2001.

EPA has placed two documents pertinent to the inspection in the public docket described in **ADDRESSES**. The documents are entitled: "Savannah River Site WIPP Disposal Program Quality Assurance Project Plan, WSRC-RP-99-01097," "Savannah River Site WIPP Disposal Program Quality Assurance Program Document, WSRC-RP-99-01119"; and "Savannah River Site WIPP Disposal Program Waste Certification Plan, WSRC-RP-99-01095" (Item II-A2-28). In accordance with 40 CFR 194.8, as amended by the final certification decision, we are providing the public 30 days to comment on these documents.

If we determine as a result of the inspection that the proposed processes and programs at the Savannah River Site adequately control the characterization of transuranic waste, 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 ship transuranic debris waste belonging to approved waste streams from the Savannah River Site to the WIPP. We will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

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 20, 2001.

**Robert D. Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 194**

**[FRL-7108-2]**

**RIN 2060-AG85**

**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) 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 the Hanford site proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents (Item II-A2-36, Docket A-98-49) are available for review in the public dockets listed in **ADDRESSES**. EPA will conduct an inspection of waste characterization systems and processes and the quality assurance program for waste characterization at Hanford to verify that the site can characterize transuranic waste in accordance with EPA's WIPP compliance criteria. EPA will perform this inspection the week of December 17, 2001. This notice of the