

respirable dust would not, after applying valid statistical techniques, accurately represent the atmospheric conditions to which the miner is continuously exposed (37 FR 3833).

In 1994, the Secretary of Labor and the Secretary of Health and Human Services tentatively concluded that the 1972 joint finding was incorrect. Therefore, on February 18, 1994, the Secretary of Labor and the Secretary of Health and Human Services published a proposed Joint Notice of Finding in the **Federal Register** (59 FR 8537). That Joint Notice proposed to find that a single, full-shift exposure measurement will accurately represent the atmospheric conditions with regard to the respirable coal mine dust concentration during the shift on which it was taken, and to rescind the 1972 finding by the Secretary of the Interior and the Secretary of Health, Education and Welfare. Also on February 18, 1994, MSHA published in the **Federal Register** (59 FR 8356) a separate notice announcing how MSHA intended to implement its new enforcement procedure utilizing single samples, and to solicit public comment on this procedure.

On February 3, 1998, after a notice and comment procedure extending over three and one-half years, including three public hearings (in Salt Lake City, Utah; Washington, District of Columbia, and Morgantown, West Virginia), MSHA and NIOSH published a final Notice of Finding, and MSHA published an enforcement policy for the Notice of Finding in the **Federal Register** (63 FR 5664 and 5687, respectively).

In May 1998, The National Mining Association (NMA) and the Alabama Coal Association petitioned the United States Court of Appeals for the 11th Circuit to review the 1998 Notice of Finding. On September 4, 1998, the United States Court of Appeals for the 11th Circuit issued a decision based on procedural grounds to vacate the Notice of Finding in the case of *National Mining Association v. Secretary of Labor*, (153 F.3d 1264).

In response to the 11th Circuit Court's decision, the Department of Labor and the Department of Health and Human Services published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM), Determination of Concentration of Respirable Coal Mine Dust (65 FR 42068) on July 7, 2000.

In that document, the Secretaries proposed a new mandatory health standard in 30 CFR part 72 that stated that a single, full-shift measurement would accurately represent atmospheric conditions to which a miner is exposed during such shift. The proposed rule

would rescind the 1972 Joint Finding. The record of the 1998 final Joint Finding was incorporated into the record for this rulemaking along with new data and information. Those items and all additional data and information were added to the rulemaking docket and made available to the public. A notice of public hearing and close of record was also published in the **Federal Register** (65 FR 42185) on July 7, 2000.

During August 2000, three public hearings were conducted in Morgantown, West Virginia; Prestonsburg, Kentucky; and Salt Lake City, Utah. Transcripts of those proceedings were made available to the public. The close of the rulemaking record was originally scheduled for August 24, 2000. In response to requests from commenters, the comment period was extended until September 8, 2000 (65 FR 49215).

On March 6, 2003 (68 FR 10940), the Secretaries published a notice of reopening addressing the July 7, 2000 proposed rule, (65 FR 42068), Determination of Concentration of Respirable Coal Mine Dust. The Secretaries reopened the rulemaking record to provide interested parties an additional opportunity to comment on any issue relevant to the July 2000 proposed rule; and to solicit comment on new data and information added to the record. The reopening addressed the background, MSHA's current enforcement policy, health effects, quantitative risk assessment, technological feasibility, economic feasibility, compliance costs and benefits, references and supporting documentations.

In May 2003, the Agencies held six public hearings in Washington, Pennsylvania; Charleston, West Virginia; Evansville, Indiana; Lexington, Kentucky; Birmingham, Alabama; and Grand Junction, Colorado. The hearings were attended by over 500 members of the public. In response to requests from the mining community the Agencies extended the post-hearing comment period from June 4, 2003 to July 3, 2003 (68 FR 32005, May 29, 2003). This notice reopens the rulemaking record and extends the comment period until further notice is published in the **Federal Register**.

II. Reasons for Reopening the Rulemaking Record

The Agencies decided to reopen the rulemaking record and extend the comment period on the proposed rule after careful consideration of comments during the May 2003 public hearings concerning the preliminary success of

in-mine tests on a prototype of the Personal Dust Monitor (PDM).

The rulemaking record and comment period will remain open during which time:

- The in-mine testing of the pre-production prototype PDMs at mines in Pennsylvania, West Virginia, Alabama, and Utah is completed;

- NIOSH and MSHA commit \$150,000 each for further testing contingent upon completion and positive assessment of the in-mine testing; and

- Information is obtained to assist in controlling and monitoring respirable coal mine dust and preventing Black Lung disease.

For all the reasons stated herein, the rulemaking record and comment period for the proposed rule is hereby reopened until further notice is published in the **Federal Register**.

A notice extending the comment period on the proposed rule Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust, (68 FR 10784, 68 FR 32005), was published in the **Federal Register** on July 3, 2003.

Dated: August 6, 2003.

Elaine L. Chao,

Secretary, Department of Labor.

Dated: August 6, 2003.

Tommy G. Thompson,

Secretary, Department of Health and Human Services.

[FR Doc. 03-20499 Filed 8-7-03; 3:01 pm]

BILLING CODE 4510-43-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL-7543-1]

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Idaho National Engineering and Environmental Laboratory Advanced Mixed Waste Treatment Project 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 an inspection for the week of August 18, 2003, at the Idaho National Engineering and Environmental Laboratory (INEEL) Advanced Mixed Waste Treatment Project (AMWTP). With this notice, we

also announce availability of Department of Energy (DOE) documents in the EPA Docket, and solicit public comments on these documents for a period of 30 days. The following DOE documents, entitled "INEEL Advanced Mixed Waste Treatment Project Certification Plan for Contact-Handled Transuranic Waste, MP-TRUW-8.1, Revision 2A" and "INEEL Advanced Mixed Waste Treatment Project Quality Assurance Project Plan, MP-TRUW-8.2, Revision 2," are available for public review in the public dockets listed in **ADDRESSES**. EPA will conduct an inspection of waste characterization systems and processes at INEEL/AMWTP to verify that the site can characterize transuranic waste in accordance with EPA's WIPP Compliance Criteria.

DATES: EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before September 11, 2003.

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-2003-0177. 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 Joglekar, Office of Radiation and Indoor Air, (202) 564-7734. 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-2003-0177. 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-2003-0177. 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, Attention Docket ID No. OAR-2003-0177. 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, N.W., Washington, DC 20460. Attention Docket ID No. OAR-2003-0177.

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-2003-0177. 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-2003-0177.

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.

Background

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. 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 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 § 194.22(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 EPA's 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, 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.

EPA will perform an inspection of the Idaho National Engineering and Environmental Laboratory (INEEL) Advanced Mixed Waste Treatment Project (AMWTP)'s technical program for waste characterization in accordance with Condition 3 of the WIPP certification. We will evaluate the adequacy, implementation, and effectiveness of technical and quality assurance (QA) processes related to the AMWTP's TRU waste characterization and certification activities. The elements of 40 CFR 194.8 waste characterization to be inspected are: (1) acceptable knowledge (AK), real-time radiography (RTR), nondestructive assay (NDA), and visual examination (VE) for the purpose of confirming RTR accuracy processes used to characterize CH TRU solid waste (S3000), and; (2) AK, RTR, and NDA, and VE (solely for the purpose of verifying the contents of newly-generated or repackaged waste) for characterizing debris waste (S5000) drums.

EPA will not inspect VE for confirmation of RTR of debris waste. Also, the Agency intends to conduct an initial inspection to verify the proper execution of the AMWTP QA Program, as required under § 194.8(a)(2). EPA requires the AMWTP to adhere to a QA Program that invokes the following QA standards: (1) ASME NQA-1-1989 edition; (2) ASME NQA-2a-1990

Addenda, Part 2.7, to ASME NQA-2-1989 edition; and (3) ASME NQA-3-1989 edition (excluding Section 2.1(b) and (c) and Section 17.1). The Agency will verify that the AMWTP established these NQA standards in their QA Plan. The inspection is scheduled to take place the week of August 18, 2003.

EPA has placed DOE documents pertinent to the inspection in the public docket described in **ADDRESSES**. These include: (1) INEEL Advanced Mixed Waste Treatment Project Certification Plan for Contact-Handled Transuranic Waste, MP-TRUW-8.1, Revision 2A, and (2) INEEL Advanced Mixed Waste Treatment Project Quality Assurance Project Plan, MP-TRUW-8.2, Revision 2. The documents are included in item II-A2-46 in Docket A-98-49. In accordance with 40 CFR 194.8, as amended by the final certification decision, EPA is providing the public 30 days to comment on these documents.

If EPA determines as a result of the inspection that the proposed processes and programs at INEEL/AMWTP 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 waste characterized by the approved processes from INEEL/AMWTP to the WIPP. 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 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: August 5, 2003.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 03-20525 Filed 8-11-03; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 380 and 391

[Docket FMCSA-97-2176]

RIN 2126-AA08

Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FMCSA is proposing standards for minimum training requirements for the operators of longer combination vehicles (LCVs) and requirements for the instructors who train these operators. This action is in response to section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991, which directed that training for the operators of LCVs include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary. The purpose of this proposal is to enhance the safety of commercial motor vehicle (CMV) operations on our nation's highways.

DATES: Comments must be received on or before October 14, 2003.

ADDRESSES: You can mail, fax, hand deliver or electronically submit written comments to the Docket Management Facility, U. S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001, FAX (202) 493-2251, on-line at <http://dms.dot.gov/submit>. You must include the docket number that appears in the heading of this document in your comment. You can examine and copy all comments at the above address from 9 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays. You can also view all comments or download an electronic copy of this document from the DOT Docket Management System (DMS) at <http://dms.dot.gov/search.htm> by typing the last four digits of the docket number appearing at the heading of this document. The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the "help" section of the Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or

postcard or print the acknowledgement page that appears after submitting comments on-line.

Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, Office of Safety Programs, (202) 366-9579, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 4007(b) of the Motor Carrier Act of 1991 (Title IV of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, 2152; 49 U.S.C. 31307) directs the U.S. Department of Transportation to establish Federal minimum training requirements for drivers of LCVs. The ISTEA also requires that the certification of these drivers' proficiency be accomplished by instructors who meet certain Federal minimum requirements to ensure an acceptable degree of quality control and uniformity. Section 4007(f) of the ISTEA defines an LCV as any combination of a truck-tractor and two or more trailers or semi-trailers with a gross vehicle weight (GVW) greater than 80,000 pounds (36,288 kilograms) which are operated on the Interstate Highway System. The FMCSA is proposing definitions to identify the various configurations being operated on the nation's highways that would be included in the final rule; they will be discussed later in this document.

Background

In the early 1980's, the FHWA¹ determined that a need existed for

¹ On October 9, 1999, the Secretary of Transportation (Secretary) rescinded the authority previously delegated to the Federal Highway Administrator to perform motor carrier functions and operations, and to carry out the duties and powers related to motor carrier safety and redelegated that authority to the Director, Office of Motor Carrier Safety, a new office within the Department of Transportation (Department). On