Office of Ecosystem Protection, Suite 1100 (CAP), One Congress Street, Boston, Massachusetts 02114–2023.

Massachusetts Department of Environmental Protection, Business Compliance Division, One Winter Street, Boston, Massachusetts 04333–0017, (617) 292–5500.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, telephone number (617) 918–1659, fax number (617) 918–0659, e-mail *courcier.john@epa.gov*.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the Massachusetts Negative Declaration submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: October 13, 2005.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 05–20984 Filed 10–19–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–7985–8]

Notification of Completeness of the Department of Energy's Compliance Recertification Application for the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of completeness of the Department of Energy's Waste Isolation Pilot Plant Compliance Recertification Application and announcement of end of public comment period.

SUMMARY: The Environmental Protection Agency (EPA, ''we'' or ''the Agency'') has determined that the Department of Energy's (DOE) Compliance Recertification Application (CRA, or ''application'') for the Waste Isolation Pilot Plant (WIPP) is complete. EPA provided written notice of the completeness decision to the Secretary of Energy on September 29, 2005. The text of the letter is contained in the **SUPPLEMENTARY INFORMATION**. The Agency has determined that the Compliance Recertification Application is complete, in accordance with 40 CFR Part 194, ''Criteria for the Certification and Recertification of the WIPP's Compliance with the 40 CFR part 191 Disposal Regulations'' (Compliance Certification Criteria). The completeness determination is an administrative step that is required by regulation, and it does not imply in any way that the Compliance Recertification Application demonstrates compliance with the Compliance Criteria and/or the disposal regulations. EPA is now engaged in the full technical review that will determine if WIPP remains in compliance with the disposal regulations. As required by the 1992 WIPP Land Withdrawal Act and our implementing regulations, EPA will make a final recertification decision within six months of issuing the completeness letter to the Secretary of Energy.

DATES: EPA opened the public comment period upon receipt of the Compliance Recertification Application (69 FR 29646–49, May 24, 2004). Comments must be received by EPA's official Air Docket on or before December 5, 2005.

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–2004–0025. 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: Lisa Sharp, telephone number: 202–343–9265 or Ray Lee, telephone number: (202) 343–9601, address: Radiation Protection Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 6608J, Washington, DC 20460. 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

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–2004–0025. 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–2004–0025. 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–2004–0025. 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–2004–0025.

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–2004–0025. 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–2004–0025.

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

The Waste Isolation Pilot Plant (WIPP) was authorized in 1980, under section 213 of the DOE National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96–164, 93 Stat. 1259, 1265), ''for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States.'' WIPP is a disposal system for transuranic (TRU) radioactive waste. Developed by DOE, WIPP is located near Carlsbad in southeastern New Mexico. TRU waste is emplaced 2,150 feet underground in an ancient layer of salt that will eventually ''creep'' and encapsulate the waste containers. WIPP has a total capacity of 6.2 million cubic feet of TRU waste.

The 1992 WIPP Land Withdrawal Act (LWA; Pub. L. 102–579) [1] limits radioactive waste disposal in WIPP to TRU radioactive wastes generated by defense-related activities. TRU waste is defined as waste containing more than 100 nano-curies per gram of alpha-emitting radioactive isotopes, with half-lives greater than twenty years and atomic numbers greater than 92. The WIPP Land Withdrawal Act further stipulates that radioactive waste shall not be TRU waste if such waste also meets the definition of high-level radioactive waste, has been specifically exempted from regulation with the concurrence of the Administrator, or has been approved for an alternate method of disposal by the Nuclear Regulatory Commission. The TRU radioactive waste proposed for disposal in WIPP consists of materials such as rags, equipment, tools, protective gear, and sludges that have become contaminated during atomic energy defense activities. The radioactive component of TRU waste consists of man-made elements created during the process of nuclear fission, chiefly isotopes of plutonium. Some TRU waste is contaminated with hazardous wastes regulated under the Resource Conservation and Recovery Act (RCRA; 42 U.S.C. 6901–6992k). The waste proposed for disposal at WIPP derives from Federal facilities across the United States, including locations in Colorado, Idaho, New Mexico, Nevada, Ohio, South Carolina, Tennessee, and Washington.

WIPP must meet EPA's generic disposal standards at 40 CFR part 191, subparts B and C, for high-level and TRU radioactive waste. These standards limit releases of radioactive materials from disposal systems for radioactive waste, and require implementation of measures to provide confidence for compliance with the radiation release limits. Additionally, the regulations limit radiation doses to members of the public, and protect ground water resources by establishing maximum concentrations for radionuclides in ground water. To determine whether WIPP performs well enough to meet these disposal standards, EPA issued the WIPP Compliance Criteria (40 CFR Part 194) in 1996. The Compliance Criteria interpret and implement the disposal standards specifically for the WIPP site. They describe what information DOE must provide and how EPA evaluates the WIPP's performance and provides ongoing independent oversight. Thus, EPA implemented its environmental radiation protection standards, 40 CFR Part 191, by applying the WIPP Compliance Criteria, 40 CFR Part 194, to the disposal of TRU radioactive waste at the WIPP. For more information about 40 CFR part 191, refer to **Federal Register** notices published in 1985 (50 FR 38066–38089, Sep. 19, 1985) and 1993 (58 FR 66398–66416, Dec. 20, 1993). For more information about 40 CFR part 194, refer to **Federal Register** notices published in 1995 (60 FR 5766–5791, Jan. 30, 1995) and in 1996 (61 FR 5224–5245, Feb. 9, 1996).

Using the process outlined in the WIPP Compliance Criteria, EPA determined on May 18, 1998 (63 FR 27354), that DOE had demonstrated that the WIPP will comply with EPA's radioactive waste disposal regulations at Subparts B and C of 40 CFR Part 191. EPA's certification determination permitted the WIPP to begin accepting transuranic waste for disposal, provided that other applicable conditions and environmental regulations were met. Disposal of TRU waste at WIPP began in March 1999.

Since the 1998 certification decision, EPA has conducted ongoing independent technical review and inspections of all WIPP activities related to compliance with the EPA's disposal regulations. The initial certification decision identified the starting (baseline) conditions for WIPP and established the waste and facility characteristics necessary to ensure proper disposal in accordance with the regulations. At that time, EPA and DOE understood that future information and knowledge gained from the actual operation of WIPP would result in changes to the best practices and procedures for the facility.

In recognition of this, section 8(f) of the amended WIPP Land Withdrawal Act requires EPA to evaluate all changes in conditions or activities at WIPP every five years to determine if WIPP continues to comply with EPA's disposal regulations for the facility. This determination is not subject to standard rulemaking procedures or judicial review, as stated in the aforementioned section of the WIPP Land Withdrawal Act. This first recertification process includes a review of all of the changes made at the WIPP facility since the original 1998 EPA certification decision.

Recertification is not a reconsideration of the decision to open WIPP, but a process to reaffirm that WIPP meets all requirements of the disposal regulations. The recertification process will not be used to approve any new significant changes proposed by DOE; any such proposals will be addressed separately by EPA. Recertification will ensure that WIPP is operated using the most accurate and up-to-date information available and provides documentation requiring DOE to operate to these standards.

EPA received DOE's first Compliance Recertification Application on March 26, 2004. On May 24, 2004, EPA announced the availability of the Compliance Recertification Application and EPA's intent to evaluate compliance with the disposal regulations and compliance criteria in the **Federal Register** (69 FR 29646). At that time, EPA also began accepting public comments on the application.

In a letter dated September 29, 2005, from EPA's Director of the Office of Radiation and Indoor Air, the Agency notified DOE that it had determined that the Compliance Recertification Application for WIPP is complete. This determination is solely an administrative measure and does not reflect any conclusion regarding WIPP's continued compliance with the disposal regulations.

This determination was made using a number of the Agency's WIPP-specific guidances; most notably, the ''Compliance Application Guidance'' (CAG; EPA Pub. 402–R–95–014) and ''Guidance to the U.S. Department of Energy on Preparation for Recertification of the Waste Isolation Pilot Plant with 40 CFR Parts 191 and 194'' (Docket A–98–49, Item II–B3–14; December 12, 2000). Both guidance documents include guidelines regarding: (1) Content of certification/recertification applications; (2) documentation and format requirements; (3) time frame and evaluation process; and (4) change reporting and modification. The Agency

[1] The 1992 WIPP Land Withdrawal Act was amended by the ''Waste Isolation Pilot Plant Land Withdrawal Act Amendments,'' which were part of the National Defense Authorization Act for Fiscal Year 1997.

developed these guidance documents to assist DOE with the preparation of any compliance application for the WIPP. They are also intended to assist in EPA's review of any application for completeness and to enhance the readability and accessibility of the application for EPA and public scrutiny.

EPA has been reviewing the Compliance Recertification Application for ''completeness'' since its receipt. EPA's review identified several areas of the application where additional information was necessary to perform a technical evaluation. EPA sent six letters to DOE requesting additional information, which are detailed below:

- *May 20, 2004* (EPA Docket A–98–49, II–B3–72)—EPA requested additional information on the performance assessment and monitoring.
- *July 12, 2004* (EPA Docket A–98–49, II–B3–73)—EPA requested additional information on waste chemistry.
- *September 2, 2004* (EPA Docket A–98–49, II–B3–74)—EPA requested additional references, clarification of issues related to chemistry and actinide solubilities, waste inventory, hydrology, and documentation on computer codes and parameters.
- *December 17, 2004* (EPA Docket A–98–49, II–B3–78)—EPA requested additional information on the Hanford tank wastes that are included in the WIPP waste inventory.
- *February 3, 2005* (EPA Docket A–98–49, II–B3–79)—EPA requested additional information on DOE's proposed MgO emplacement plan.
- *March 4, 2005* (EPA Docket A–98–49, II–B3–80)—EPA requested additional information on performance assessment (PA) issues.

DOE submitted the requested information with a series of 11 letters, which were sent on the following dates:

- July 15, 2004 (EPA Docket A–98–49, II–B2–34).
- August 16, 2004 (EPA Docket A–98–49, II–B2–34).
- September 7, 2004 (EPA Docket A–98–49, II–B2–36).
- September 29, 2004 (EPA Docket A–98–49, II–B2–37).
- October 20, 2004 (EPA Docket A–98–49, II–B2–38).
- November 1, 2004 (EPA Docket A–98–49, II–B2–39).
- December 17, 2004 (EPA Docket A–98–49, II–B2–40).
- January 19, 2005 (EPA Docket A–98–49, II–B2–41).
- March 21, 2005 (EPA Docket A–98–49, II–B2–47).
- May 11, 2005 (EPA Docket A–98–49, II–B2–50).
- September 20, 2005 (EPA Docket A–98–49, II–B2–51).

All completeness related correspondence was placed in our dockets (A–98–49, EDOCKET No. OAR–2004–0025) and on our WIPP Web site (*http://www.epa.gov/radiation/wipp*).

Since receipt of the Compliance Recertification Application, EPA received two rounds of public comments from stakeholder groups regarding both the completeness and technical adequacy of the recertification application. In addition to soliciting written public comments, EPA held a series of public meetings in New Mexico during July 2004, and June 2005, to hear public comments and to discuss WIPP recertification. These comments were instrumental in developing EPA's requests for additional information from DOE, particularly regarding the Hanford tank waste and its inclusion in the WIPP waste inventory.

EPA will now evaluate the complete application in determining whether the WIPP continues to comply with the radiation protection standards for disposal. EPA will also consider any additional public comments and other information relevant to WIPP's compliance. The Agency is most interested in whether new or changed information has been appropriately incorporated into performance assessment calculations for WIPP, and whether the potential effects of changes are properly characterized.

The Agency will review DOE's recertification application to ensure that WIPP will continue to safely contain TRU radioactive waste. If EPA approves the Compliance Recertification Application, it will set the parameters for how WIPP will be operated by DOE over the following five years. The approved Compliance Recertification Application will then serve as the baseline for the next recertification. As required by the WIPP Land Withdrawal Act, EPA will make a final recertification decision within six months of issuing its completeness determination.

September 29, 2005.

Honorable Samuel W. Bodman,
Secretary,
U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

Dear Mr. Secretary:

Pursuant to section 8(f) of the Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act, as amended, and in accordance with the WIPP Compliance Criteria at 40 CFR 194.11, I hereby notify you that the U.S. Environmental Protection Agency (EPA or ''the Agency'') has determined that the U.S. Department of Energy's (DOE) Compliance Recertification Application for WIPP is complete. This completeness determination is an administrative determination required under the WIPP Compliance Criteria, which implement the Agency's Final Radioactive Waste Disposal Regulations at subparts B and C of 40 CFR part 191. While the completeness determination initiates the six-month evaluation period provided for in section 8(f)(2) of the Land Withdrawal Act, it does not have any generally applicable legal effect. Further, this determination does not imply or indicate that DOE's Compliance Recertification Application demonstrates compliance with the Compliance Criteria and/or the Disposal Regulations.

Section 8(f) of the amended Land Withdrawal Act requires EPA to evaluate all changes in conditions or activities at WIPP every five years to determine if the facility continues to comply with EPA's disposal regulations. This first recertification process includes a review of all of the changes made at the WIPP facility since the original 1998 EPA certification decision.

Under the applicable regulations, EPA may recertify the WIPP only after DOE has submitted a ''full'' (or complete) application (see 40 CFR 194.11). Upon receipt of the Compliance Recertification Application on March 26, 2004, EPA immediately began its review to determine whether the application was complete. Shortly thereafter, the Agency began to identify areas of the Compliance Recertification Application that required supplementary information and analyses. In addition, EPA received public comments and held public meetings on the application that identified areas where additional information was needed for EPA's review.

- *May 20, 2004*—EPA requested additional information on the performance assessment and monitoring.
- *July 12, 2004*—EPA requested additional information on waste chemistry.
- *September 2, 2004*—EPA requested additional references, clarification of issues related to chemistry and actinide solubilities, waste inventory, hydrology, and documentation on computer codes and parameters.
- *December 17, 2004*—EPA requested additional information on the Hanford tank wastes that are included in the WIPP waste inventory.
- *February 3, 2005*—EPA requested additional information on DOE's proposed MgO emplacement plan.
- *March 4, 2005*—EPA requested additional information on performance assessment (PA) issues.

DOE submitted the requested information with a series of 11 letters, which were sent on the following dates:

- July 15, 2004.
- August 16, 2004.
- September 7, 2004.
- September 29, 2004.
- October 20, 2004.
- November 1, 2004.
- December 17, 2004.
- January 19, 2005.
- March 21, 2005.
- May 11, 2005.
- September 20, 2005.

All completeness-related correspondence was placed in our dockets (A–98–49, EDOCKET OAR–2004–0025) and on our Web site (*http://www.epa.gov/radiation/wipp).*

Based on the information provided by DOE, we conclude that the Compliance Recertification Application is now complete. Again, this is the initial, administrative step that indicates DOE has provided information relevant to each applicable provision of the WIPP Compliance Criteria and in sufficient detail for us to proceed with a full technical evaluation of the adequacy of the application. In accordance with section 8(f)(2) of the amended Land Withdrawal Act, EPA will make its recertification decision within six months of this letter.

To the extent possible, the Agency began conducting a preliminary technical review of the application upon its submittal by DOE, and has provided the Department with relevant technical comments on an ongoing basis. EPA will continue to conduct its technical review of the Compliance Recertification Application as needed, and will convey further requests for additional information and analyses. The Agency will issue its compliance recertification decision, in accordance with 40 CFR part 194 and part 191, subparts B and C, after it has thoroughly evaluated the complete CRA and considered relevant public comments. The public comment period on our completeness determination will remain open for 45 days following the publication of this letter in the **Federal Register**.

Thank you for your cooperation during our review process. Should your staff have any questions regarding this request, they may contact Bonnie Gitlin at (202) 343–9290 or by e-mail at *gitlin.bonnie@epa.gov.*

Sincerely,

Elizabeth A. Cotsworth.
Director, Office of Radiation and Indoor Air.

Dated: October 13, 2005.

William L. Wehrum,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 05–20987 Filed 10–19–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 387

[Docket No. FHWA–1997–2923]

RIN 2126–AA82 (Formerly RIN 2126–AA28)

Qualifications of Motor Carriers To Self-Insure Their Operations and Fees To Support the Approval and Compliance Process

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

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: This notice is a withdrawal of a proposed rule under RIN 2126–AA28, which was inadvertently deleted from a prior agenda. The 1999 NPRM requested comments on the financial security and collateral requirements of self-insured motor carriers and fees associated with self-insurance. Section 103 of the Interstate Commerce Commission Termination Act of 1995 (ICCTA) directed the Secretary to create a single, on-line Federal system to replace four existing DOT and former ICC systems—one of those being the financial responsibility information system. Because self-insurance is an aspect of carrier financial responsibility, the agency has decided to withdraw the 1999 NPRM and has proposed amendments to the self-insurance regulations within the context of the financial reporting requirements being proposed under a new Unified Registration System and announced in a separate NPRM.

DATES: The NPRM published on May 5, 1999, at 64 FR 24123 is withdrawn as of October 20, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schultz, Jr., Driver and Carrier Operations Division, (202) 366–4001, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 104(h) of the Interstate Commerce Commission Termination Act of 1995 [Pub. L. 104–88, December 29, 1995, 109 Stat. 888] (ICCTA) directed the Secretary to continue to enforce the rules and regulations of the former ICC, which were in effect on July 1, 1995, governing qualifications for approval of a motor carrier as a self-insurer, until the Secretary deemed it in the public interest to revise those rules. Section 104(h) also specified that any revised rulemakings regarding self-insurance must provide for the continuing ability of motor carriers to obtain self-insurance authorizations, and the continued qualification of all carriers conducting self-insured operations pursuant to grants issued by the ICC or the Secretary. On September 23, 1997, the predecessor agency to the Federal Motor Carrier Safety Administration (FMCSA)—the Federal Highway Administration, Office of Motor Carriers—announced its intention to revise the self-insurance regulations in an advance notice of proposed rulemaking (ANPRM) (62 FR 49654). (The Federal Highway Administration, Office of Motor Carriers, became FMCSA on January 1, 2000, pursuant to the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106–159, 113 Stat. 1748 (December 9, 1999).) The public was invited to comment on a proposal to examine the sufficiency of the existing requirements for self-insurance authorizations, as well as the need for additional fees for functions performed in addition to the processing of the initial application. More specifically, the agency announced that it was considering the need for fees to cover costs associated with processing multi-carrier applications and alterations to self-insurance authorizations, and for a monitoring fee to cover costs related to compliance responsibilities. The ANPRM solicited comments on the merits of continuing the self-insurance program and whether congressional action should be proposed to terminate the authorizations.

On May 5, 1999, the agency proposed procedural changes to the self-insurance process for for-hire motor carriers (66 FR 24123). Specifically, the agency would reevaluate the security and collateral requirements of any self-insured carrier that fails to generate from operations, after payment of all expenses except annual self-insurance claims expenses, twice the level of cash needed to pay the self-insurance claims. An additional application fee would be assessed to cover carrier requests for modifications and alternations to self-insurance authorizations that require a reevaluation of the carrier's financial condition. Because the agency was able to process the basic first-time self-insurance applications for less than it was currently charging, the fee for processing the initial application would be reduced from $4,200 to $3,000 for an economic cost savings. Finally, the NPRM proposed implementing additional procedures necessary for motor carriers to establish billing accounts to pay all insurance-related fees required by the agency. The proposal included a schedule of filing fees and general instructions regarding payment.

Section 103 of ICCTA amended Section IV of title 49, United States Code by adding a new sec. 13908. Section 13908 directs the Secretary to issue regulations to replace four systems with a ''single, on-line, Federal system.'' The financial responsibility information system under 49 U.S.C. 13906 is one of the four systems to be merged under the unified system. Because the issue of self-insurance falls under the umbrella of financial responsibility, the agency has decided to withdraw the 1999 NPRM and discuss its proposals within the context of the Unified Registration System (URS) NPRM (published in the