

proposed rulemaking, the NSR Reform rulemaking, which was published Tuesday, July 23, 1996 (61 FR 38249). The NSR Reform rulemaking proposes to revise regulations for the approval and promulgation of implementation plans, and the requirements for preparation, adoption, and submittal of implementation plans governing the NSR programs mandated by parts C and D of title I of the Clean Air Act.

**FOR FURTHER INFORMATION CONTACT:** Daniel deRoeck, Information Transfer and Program Integration Division, MD-12, Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541-5593, telefax (919) 541-5509.

**SUPPLEMENTARY INFORMATION:**

**Clarification**

The EPA proposed the Clean Unit exclusion as a simplified applicability test for changes to existing emissions units that already are well controlled. See 61 FR 38255-38258. The proposal is intended to require that in order for an existing emissions unit to qualify as a "clean unit" the unit must have a federally enforceable emissions limit that "is comparable" to the best available control technology or lowest achievable control technology requirements for that type of unit, whichever would otherwise be applicable to the proposed change. The relevant regulatory language is contained in proposed § 51.165(a)(1)(v)(C) (10) through (13) of the nonattainment NSR rules, §§ 51.166(b)(2)(iii)(L) (1) through (4), and 52.21(b)(2)(iii)(L) (1) through (4) of the PSD rules, and is referenced in § 52.24(f) of the statutory restriction on new sources (construction ban). In each rule, EPA intended that eligibility for the clean unit exclusion is to be contingent upon several criteria being satisfied. However, in the proposed language in § 51.165 it may not be clear to the reader that each of the criteria under paragraphs (a)(1)(v)(C)(10) through (a)(1)(v)(C)(13) must be satisfied in order for an emissions unit to qualify for the exclusion. Because of a problem with the overall structure of the regulations at § 51.165, it is not feasible to make a simple correction without first restructuring the overall regulation. Instead, for purposes of interpreting and commenting on the proposal the reader is advised to read the "Clean Unit" exemption as provided in §§ 51.166(b)(2)(iii)(L) (1) through (4) and 52.21(b)(2)(iii)(L) (1) through (4) (as corrected below) for the correct interpretation of the proposed exclusion. The EPA is considering the

most effective way to restructure § 51.165 to correct the problem, and intends to make the necessary restructuring at the time of promulgation of final rulemaking.

**Need for Correction**

As published, the preamble and proposed amendments to the regulations at §§ 51.166 and 52.21, contain errors which are misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication on July 23, 1996 of the proposed regulations 40 CFR 51.166 and 52.21, which were the subject of FR Doc. 96-17544, are corrected to read as follows:

**Correction to Preamble**

1. On page 38258, in the first column, in section II.C.4., Description of the Clean Facility Proposal, in the third sentence, the reference "§§ 51.165(a)(1)(v)(C)(11)," is corrected to read "§§ 51.165(a)(1)(v)(C)(14)."

**§ 51.166 [Corrected]**

2. On page 38330, in the second column, in § 51.166, paragraph (b)(2)(iii)(L)(2)(iii), the last line is corrected by removing the period (".") and adding a semicolon (";").
3. On page 38330, in the second column, in § 51.166, paragraph (b)(2)(iii)(L)(3), the last line is corrected by adding the word "and" after the semicolon.
4. On page 38330, in the second column, in § 51.166, paragraph (b)(2)(iii)(L)(4), the last line is corrected by removing the text "; and" and adding a period (".").

**§ 52.21 [Corrected]**

5. On page 38337, in the third column, in § 52.21, paragraph (b)(2)(iii)(L)(2)(iii), the last line is corrected by removing the period (".") and adding a semicolon (";").
6. On page 38337, in the third column, in § 52.21, paragraph (b)(2)(iii)(L)(3), the last line is corrected by adding the word "and" after the semicolon.
7. On page 38337, in the third column, in § 52.21, in paragraph (b)(2)(iii)(L)(4), the last line is corrected by removing the text "; and" and adding a period (".").

Dated: November 8, 1996.

Mary Nichols,  
Assistant Administrator for Air and Radiation.

[FR Doc. 96-29356 Filed 11-14-96; 8:45 am]

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**40 CFR Parts 52 and 81**

[IN72-1b; FRL-5647-8]

**Designation of Areas for Air Quality Planning Purposes; Indiana**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve two State Implementation Plan (SIP) revision requests submitted by the State of Indiana on March 14, 1996, and June 17, 1996. The state requested redesignation of portions of Marion, LaPorte, and Wayne Counties and all of Vigo County to attainment for SO<sub>2</sub>. In the Final Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the agency views this as a noncontroversial SIP revision 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 proposed rule, no further activity is contemplated in relation to this rule. 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 on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by December 16, 1996.

**ADDRESSES:** Copies of the revision request are available for inspection at the following address: Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Ryan Bahr at (312) 353-4366 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch AR-18J, Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Ryan Bahr at (312) 353-4366.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 10, 1996.

David A. Ullrich,

*Acting Regional Administrator.*

[FR Doc. 96-28873 Filed 11-14-96; 8:45 am]

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[FRL-5650-4]

RIN 2060-AG85

#### 40 CFR Part 194

### Decision to Certify Whether the Waste Isolation Pilot Plant Complies With the 40 CFR Part 191 Disposal Regulations and the 40 CFR Part 194 Compliance Criteria

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Advance Notice of Proposed Rulemaking (ANPR).

**SUMMARY:** The Environmental Protection Agency (EPA) intends to certify whether or not the Waste Isolation Pilot Plant (WIPP) will comply with EPA's environmental radiation protection standards for the disposal of radioactive waste. The WIPP is being constructed by the Department of Energy (DOE) near Carlsbad, New Mexico, as a potential repository for the safe disposal of transuranic radioactive waste. Pursuant to the 1992 WIPP Land Withdrawal Act, as amended, EPA must certify that the WIPP will comply with EPA's standards for disposal, and other statutory requirements must be met, before DOE may commence disposal of radioactive waste at the WIPP.

EPA will determine whether the WIPP will comply with EPA's standards for disposal based on the application submitted by the Secretary of Energy. DOE's compliance certification application was received by the EPA on October 29, 1996, and a copy may be found in EPA's public docket (see Additional Docket Information at the end of this notice). The Administrator will make a determination as to the completeness of the application in the near future and will notify the Secretary, in writing, when the Agency deems the application "complete." EPA will evaluate the "complete" application in determining whether the WIPP will comply with the radiation protection standards for disposal. The Agency requests public comment on all aspects of the DOE's application.

**DATES:** Comments in response to today's document and on DOE's compliance application must be received by March 17, 1997. Public hearings will be held in New Mexico during the public comment period. A separate announcement will

be published in the Federal Register to provide public hearing information.

**ADDRESSES:** Comments and requests for public hearings should be submitted, in duplicate, to: Docket No. A-93-02, Air Docket, room M-1500 (LE-131), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460. See additional docket information in the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:**

Mary Kruger or Betsy Forinash; telephone number: (202) 233-9310; address: Radiation Protection Division, Mail Code 6602J, U.S. Environmental Protection Agency, Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** The Waste Isolation Pilot Plant (WIPP) was authorized in 1980, under section 213 of the Department of Energy (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." The WIPP is being constructed by the DOE near Carlsbad, New Mexico, as a potential repository for the safe disposal of transuranic radioactive waste.

The 1992 WIPP Land Withdrawal Act (Pub. L. 102-579)<sup>1</sup> limits radioactive waste disposal in the WIPP to transuranic radioactive wastes generated by defense-related activities. Transuranic 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 Act further stipulates that radioactive waste shall not be transuranic 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 transuranic radioactive waste proposed for disposal in the 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 transuranic waste consists of man-made elements created during

the process of nuclear fission, chiefly isotopes of plutonium.

The EPA is required by the WIPP Land Withdrawal Act to evaluate and certify whether the WIPP will comply with subparts B and C of 40 CFR part 191—known as the "disposal regulations." These regulations 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.

The WIPP Land Withdrawal Act also calls for EPA to establish criteria implementing the disposal regulations at the WIPP. EPA published final criteria (40 CFR part 194) on February 9, 1996. See 61 FR 5224. Thus, EPA will implement its environmental radiation protection standards, 40 CFR part 191, by applying the WIPP compliance criteria, 40 CFR part 194, to the proposed disposal of transuranic radioactive waste at the WIPP. For more information about 40 CFR part 191, refer to Federal Register documents 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 documents published in 1996 (61 FR 5224-5245, Feb. 9, 1996) and 1995 (60 FR 5766-5791, Jan. 30, 1995).

The DOE may not begin to emplace transuranic waste underground for disposal at the WIPP until EPA certifies that the WIPP will comply with the disposal regulations, and all other requirements of section 7(b) of the WIPP Land Withdrawal Act, as amended, have been satisfied. As required by section 8(d) of the amended WIPP Land Withdrawal Act, EPA's decision on whether the WIPP complies with the disposal regulations will be accomplished by rulemaking in accordance with the notice-and-comment requirements of the Administrative Procedure Act (5 U.S.C. 553). In addition to these general requirements, EPA developed specific provisions for public involvement in the WIPP compliance certification rulemaking. The public participation criteria found in § 194.61, § 194.62, § 194.63, and § 194.67 of the WIPP compliance criteria provide time periods for public comment, allow opportunities for public hearings, and otherwise enable public access to

<sup>1</sup> 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.