

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 194

[FRL—6014—9]

RIN 2060—AG85

#### Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations: Certification Decision

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency ("EPA") is certifying that the Department of Energy's ("DOE") Waste Isolation Pilot Plant ("WIPP") will comply with the radioactive waste disposal regulations set forth at Subparts B and C of 40 CFR Part 191 (Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Waste). The EPA is required to evaluate whether the WIPP will comply with EPA's standards for the disposal of radioactive waste by the WIPP Land Withdrawal Act ("LWA") of 1992, as amended. EPA's certification of compliance allows the emplacement of radioactive waste in the WIPP to begin, provided that all other applicable health and safety standards, and other legal requirements, have been met. The certification constitutes final approval under the WIPP LWA for shipment of transuranic waste from specific waste streams from Los Alamos National Laboratory for disposal at the WIPP. However, the certification is subject to four specific conditions, most notably that EPA must approve site-specific waste characterization measures and quality assurance programs before other waste generator sites may ship waste for disposal at the WIPP. The Agency is amending the WIPP compliance criteria (40 CFR Part 194) by adding Appendix A that describes EPA's certification, incorporating the approval processes for waste generator sites to ship waste for disposal at the WIPP, and adding a definition for "Administrator's authorized representative." Finally, EPA is finalizing its decision, also pursuant to the WIPP LWA, that DOE does not need to acquire existing oil and gas leases near the WIPP to comply with the disposal regulations.

**EFFECTIVE DATE:** This decision is effective June 17, 1998. A petition for review of this final action must be filed no later than July 17, 1998, pursuant to

section 18 of the WIPP Land Withdrawal Act of 1992 (Pub. L. 102-579), as amended by the WIPP LWA Amendments (Pub. L. 104-201).

**FOR FURTHER INFORMATION CONTACT:** Betsy Forinash, Scott Monroe, or Sharon White; telephone number (202) 564-9310; address: Radiation Protection Division, Center for the Waste Isolation Pilot Plant, Mail Code 6602-J, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460. For copies of the Compliance Application Review Documents supporting today's action, contact Scott Monroe. The Agency is also publishing a document, accompanying today's action, which responds in detail to significant public comments that were received on the proposed certification decision. This document, entitled "Response to Comments," may be obtained by contacting Sharon White at the above phone number and address. Copies of these documents are also available for review in the Agency's Air Docket A-93-02.

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