[FR Doc. 2010–17289 Filed 7–15–10; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket: EPA–R10–OAR–2010–0432; FRL–9171–3]

Finding of Attainment for PM_{10} for the Mendenhall Valley PM_{10} Nonattainment Area, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA finds that the Mendenhall Valley nonattainment area in Alaska attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM_{10}) as of December 31, 1995.

DATES: Comments must be received on or before August 16, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2010–0432, by any of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: body.steve@epa.gov*.
- *Mail:* Steve Body, U.S. EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier:* U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Steve Body, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Steve Body at telephone number: (206) 553–0782, e-mail address: *body.steve@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. EPA is approving the attainment determination as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule.

If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments 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. Please note that if we receive 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.

Dated: June 22, 2010.

Dennis J. McLerran,

Regional Administrator, EPA, Region 10.

[FR Doc. 2010–17416 Filed 7–15–10; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 191 and 194

[EPA–HQ–OAR–2009–0330; FRL–9175–6]

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 determination and close 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 June 29, 2010. The text of the letter is contained in the **SUPPLEMENTARY INFORMATION**. The Agency has determined that the 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 CRA 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 2009 CRA (74 FR 28468, June 16, 2009). Comments must be received on or before August 16, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0330, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail:* to *a-and-r-docket@epa.gov*.
- *Fax:* 202–566–1741.
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Instructions: Direct your comments to Attn: Docket ID No. EPA–HQ–OAR–2009–0330. The Agency's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*. 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.

FOR FURTHER INFORMATION CONTACT: Ray Lee, Radiation Protection Division, Center for Radiation Information and Outreach, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; *telephone number:* 202–343–9463; *fax number:* 202–343–2305; *e-mail address: lee.raymond@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

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 LWA 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 facility will comply with EPA's radioactive waste disposal regulations at subparts B and C of 40

[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.

CFR part 191. EPA's certification determination permitted 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 (and the initial recertification decision in 2006) EPA has conducted ongoing independent technical review and inspections of all WIPP activities related to compliance with the EPA's disposal regulations. The 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 LWA 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. The first recertification process (2004–2006) included a review of all of the changes made at WIPP since the original 1998 EPA certification decision up until the receipt of the initial CRA in March 2004. This second recertification process includes a review of all the changes made at the facility since March 2004.

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 initial CRA on March 26, 2004, and subsequently opened a public comment period on the application and the Agency's intent to evaluate compliance with the disposal regulations and compliance criteria in the **Federal Register** (69 FR 29646, May 24, 2004). Following a number of requests for additional information from DOE, EPA issued its completeness determination on October 20, 2005 (70 FR 61107–61111). After analyzing public comments and completing its technical review, the Agency then announced the first WIPP recertification decision on March 29, 2006, via a letter to the Secretary of Energy.

EPA received DOE's second CRA on March 24, 2009, and announced the Agency's intent to evaluate compliance with the disposal regulations and compliance criteria in the **Federal Register** (74 FR 28468–28471, June 16, 2009). At that time, EPA also began accepting public comments on the application.

In a letter dated June 29, 2010, from EPA's Director of the Office of Radiation and Indoor Air to the Secretary of Energy, the Agency notified DOE that the 2009 CRA 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 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 CRA 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 five letters to DOE requesting additional information, which are detailed below:

- May 21, 2009 (Docket ID: EPA–HQ–OAR–2009–0330–0004)—EPA requested additional information on the performance assessment and chemical portions of the CRA–2009.
- July 16, 2009 (Docket ID: EPA–HQ–OAR–2009–0330–0005)—EPA requested additional information on waste inventory, performance assessment calculations/code documentation, human intrusion, and chemistry (including karst comments raised by stakeholders).
- October 19, 2009 (Docket ID: EPA–HQ–OAR–2009–0330–0006)—EPA requested additional information on waste inventory, chemistry, features/events/processes (FEPs), and performance assessment paramaters/codes.
- January 25, 2010 (addendum to 5/21/09 letter via e-mail; Docket ID: EPA–HQ–OAR–2009–0330–0013, 0013.1)—EPA requested additional information conceptual models and modeling calculations.
- February 22, 2010 (Docket ID: EPA–HQ–OAR–2009–0330–0015)—EPA requested additional information on repository chemistry issues.

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

- August 24, 2009 (Docket ID: EPA–HQ–OAR–2009–0330–0007, 0007.1–0007.4).
- September 30, 2009 (Docket ID: EPA–HQ–OAR–2009–0330–0008, 0008.1–0008.9).
- November 25, 2009 (Docket ID: EPA–HQ–OAR–2009–0330–0011, 0011.1–0011.3).
- January 12, 2010 (Docket ID: EPA–HQ–OAR–2009–0330–0008, 0008.1–0008.9).
- February 22, 2010 (Docket ID: EPA–HQ–OAR–2009–0330–0012, 0012.1–0012.6).
- March 31, 2010 (Docket ID: EPA–HQ–OAR–2009–0330–0014, 0014.1–0014.3).
- April 12, 2010 (Docket ID: EPA–HQ–OAR–2009–0330–0016, 0016.1–0016.3).
- April 19, 2010 (Docket ID: EPA–HQ–OAR–2009–0330–0017, 0017.1).
- May 26, 2010 (Docket ID: EPA–HQ–OAR–2009–0330–0018, 0018.1–0018.3).
- June 24, 2010 (Docket ID: EPA–HQ–OAR–2009–0330–0025, 0025.1–0025.2).

All completeness related correspondence was placed in our dockets (DOCKET ID: EPA–HQ–OAR–2009–0330) and on our WIPP Web site (*http://www.epa.gov/radiation/wipp*).

Since receipt of the 2009 CRA, the Agency has received a number 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 (June 2009 and May 2010) to discuss stakeholders concerns and issues related to WIPP recertification. These comments helped in developing EPA's

requests for additional information from DOE, particularly regarding the WIPP waste inventory and groundwater (karst) issues.

EPA will now undertake a full technical evaluation on the complete 2009 CRA 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.

If EPA approves the application, it will set the parameters for how WIPP will be operated by DOE over the following five years. The approved CRA will then serve as the baseline for the next recertification. As required by the WIPP LWA, the Agency will make a final recertification decision within six months of issuing its completeness determination.

June 29, 2010

Honorable Dr. Steven Chu, 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) 2009 Compliance Recertification Application (CRA) 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 CRA 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 second recertification process includes a review of all of the changes made at the WIPP facility since the initial 2004 CRA (and subsequent recertification decision, issued in 2006) was submitted by DOE.

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 CRA on March 24, 2009, EPA immediately began its review to determine whether the application was complete. Shortly thereafter, the Agency began to identify areas of the 2009 CRA 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.

EPA identified completeness concerns in a series of letters/e-mails from the Agency to Dr. Dave Moody, Manager for DOE's Carlsbad Field Office, as well as his staff. This correspondence is detailed below:

- May 21, 2009—EPA requested additional information on the performance assessment and chemical portions of the CRA–2009.
- July 16, 2009—EPA requested additional information on waste inventory, performance assessment calculations/code documentation, human intrusion, and chemistry (including karst comments raised by stakeholders).
- October 19, 2009—EPA requested additional information on waste inventory, chemistry, features/events/processes (FEPs), and performance assessment paramaters/codes.
- January 25, 2010 (addendum to 5/21/09 letter via e-mail)— EPA requested additional information conceptual models and modeling calculations.
- February 19, 2010—EPA requested additional information on repository chemistry issues.

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

- August 24, 2009
- September 30, 2009
- November 25, 2009
- January 12, 2010
- February 22, 2010
- March 31, 2010
- April 12, 2010
- April 19, 2010
- May 26, 2010
- June 22, 2010
- June 28, 2010

All completeness-related correspondence was placed in our public docket (EDOCKET EPA–HQ–OAR–2009–0330) and on our website (*http://www.epa.gov/radiation/wipp*).

Based on the information provided by DOE, we conclude that the 2009 CRA is 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 final 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 2009 CRA 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 30 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 Tom Peake at (202) 343–9765 or by e-mail at *peake.tom@epa.gov.*

Sincerely,

Michael P. Flynn,

Director, Office of Radiation and Indoor Air.

Dated: July 7, 2010.

Michael P. Flynn,

Director, Office of Radiation and Indoor Air.

[FR Doc. 2010–17141 Filed 7–15–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0912231441–91445–01]

RIN 0648–AY48

Fisheries of the Exclusive Economic Zone Off Alaska; Skates Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands; Groundfish Annual Catch Limits for the Bering Sea and Aleutian Islands Management Area and Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendments 95 and 96 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) and Amendment 87 to the FMP for Groundfish of the Gulf of Alaska (GOA), (collectively referred to as "the FMPs"). If approved, Amendment 95 would move skates from the "other species" category to the "target species" category in the FMP. Amendments 96 and 87 would revise the FMPs to meet the National Standard 1 guidelines for annual catch limits and accountability measures. These amendments would move all remaining species groups from the "other species" category to the "target species" category, remove the