

including those under the Clean Air Act, and taking appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio Clean Air Act program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, federal approval for the Clean Air Act program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides, Implementation plans.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 7, 1998.

Robert Springer,

Acting Regional Administrator, Region V.
[FR Doc. 98-13614 Filed 5-20-98; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY27-1-178, FRL-6101-5]

Approval and Promulgation of Implementation Plans; Emission Trade to Meet Reasonably Available Control Technology for the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing approval of a revision to the New York State Implementation Plan for ozone. This revision proposes to establish and require an emission trade between Niagara Mohawk Power Corporation and Champion International Paper Corporation which will result in both sources meeting the requirements of Reasonably Available Control Technology for oxides of nitrogen. The intended effect of this proposed action is to approve source-specific permit conditions, requiring the sources to trade emissions in accordance with requirements of the Clean Air Act, and resulting in emission reductions which will help toward attaining the national ambient air quality standards for ozone.

DATES: Comments must be received on or before June 22, 1998.

ADDRESSES: All comments should be addressed to: Ronald Borsellino, Chief, Air Programs Branch, U.S. EPA, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Copies of the state submittal and other information are available for public inspection during normal business hours, by appointment, at the Air Programs Branch, U.S. EPA, Region II Office, 290 Broadway, 25th Floor, New York, New York; as well as the New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Richard Ruvo, Environmental Engineer, Air Programs Branch, U.S. EPA, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007-1866; (212) 637-4014.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (the Act) requires that States develop Reasonably Available Control Technology (RACT) regulations for all major stationary sources of oxides of nitrogen (NO_x) in areas which have been classified as "moderate," "serious," "severe," and "extreme," ozone nonattainment areas, and in all areas of the Ozone Transport Region (OTR). The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, Sept. 17, 1979). This requirement is established by sections 182(b)(2), 182(f), and 184(b) of the Act. The Act's NO_x requirements are further described in more detail in "The General Preamble for Implementation of Title I of the Clean Air Act Amendments," (57 FR 13498, April 16, 1992) and "The NO_x Supplement to the General Preamble" (57 FR 55620, November 25, 1992).

The entire State of New York is included in the OTR, therefore RACT must be applied to all major stationary sources of NO_x emissions. New York State has defined a major stationary source for NO_x as a source in the New York City metropolitan area and the lower Orange County metropolitan area which has the potential to emit 25 tons per year (TPY) and as a source in the rest of the State which has the potential to emit 100 TPY.

New York State adopted its NO_x RACT regulation, part 227-2, on January 19, 1994. Part 227-2, section 2.5(b)

allows for system-wide emissions averaging as a compliance strategy. The average must be weighted so the mass emission rate of the units in operation is equivalent to the mass emission rate that would be achieved if each operating unit individually met the applicable RACT emission limit. Averaging may include units owned and operated by the same person.

II. State Submittal

On November 8, 1995, New York proposed for comment special permit conditions for the Niagara Mohawk Power Corporation and the Champion International Paper Corporation for an emission trade to meet the NO_x RACT requirements of part 227-2. New York approved the special permit conditions on December 14, 1995, having received no public comments. On April 9, 1996, New York State submitted the special permit conditions to EPA as a source-specific revision to the State Implementation Plan (SIP) for ozone. New York submitted additional technical information on April 30, 1996, October 17, 1996 and December 5, 1996. The SIP revision was reviewed by EPA in accordance with the completeness criteria found at Title 40, part 51, appendix V of the *Code of Federal Regulations*. EPA determined the SIP revision to be administratively and technically complete in a June 4, 1996 letter to New York.

In the process of its review of the April 9, 1996 SIP revision, EPA noted deficiencies in the special permit conditions. In a February 6, 1997 letter, EPA requested New York to correct these deficiencies, delaying review of the SIP revision. New York re-proposed for comment the special permit conditions for the emission trade on September 24, 1997. New York approved the special permit conditions on December 2, 1997, having received no public comments. On February 2, 1998, New York submitted to EPA the December 2, 1997 special permit conditions. The February 2, 1998 submittal supplemented the original April 9, 1996 SIP revision.

For a more detailed discussion of New York's SIP submittal and EPA's proposed action, the reader is referred to the Technical Support Document (TSD) which was developed as part of this action. Copies of the TSD are found at the previously mentioned addresses.

III. Analysis of State Submittal

A. Facility Descriptions

Niagara Mohawk Power Corporation (NMPC) operates four fossil fuel-fired utility plants in New York State; the

Oswego, Albany, C.R. Huntley, and Dunkirk Steam Stations. There are two Titles of the Act which impose NO_x emission limits on NMPC's fossil fuel-fired generating plants. All of NMPC's fossil units became subject to the Title I NO_x RACT requirements as of May 31, 1995. NMPC's coal-fired units are also subject to the Title IV Acid Rain requirements for NO_x. However, the Title I NO_x RACT requirements established by New York in part 227-2 are currently more restrictive on NMPC's units than the emission limits established by the Title IV rules. NMPC has developed a plan to comply with the NO_x RACT emission limits through the installation of air pollution control technology. In addition to these controls, NMPC uses a system-wide averaging scheme as a fallback to meeting the NO_x RACT requirements.

Champion International Paper Corporation (Champion) owns and operates two coal-fired boilers at its paper mill in Deferiet, Jefferson County. Under part 227-2, the two boilers are subject to the NO_x RACT emission limit of 0.5 lbs/MMBtu (pounds per million British Thermal Units). Stack tests completed in October 1995 and May 1997 indicated average NO_x emissions ranging from 0.665 lbs/MMBtu to 0.893 lbs/MMBtu.

Champion determined it would be technically infeasible for the two boilers to meet the NO_x RACT emission limit with conventional NO_x control technologies. Champion initially planned to meet the NO_x RACT requirements through the compliance option of repowering. However, after discussions with NMPC and New York, Champion decided to achieve compliance with RACT, as prescribed by part 227-2, by utilizing beyond-RACT emission reductions from the NMPC system-wide averaging plan.

B. Special Permit Conditions for the Emission Trade

New York has modified the permits for both NMPC and Champion in order to allow the implementation of the emission trade. For NMPC, which is creating the emission reductions, the special permit conditions require emissions of NO_x to be reduced below RACT-allowable emissions by the amount to be traded. For Champion, which will be using NMPC's emission reductions, the special permit conditions allow emissions of NO_x to be emitted in excess of the RACT-allowable emissions, but only by 90% of the amount to be traded.

The special permit conditions for NMPC, allow compliance to be demonstrated on either a unit-by-unit

basis or on a system-wide average. Surplus NO_x reductions, in pounds, are calculated as the difference between the amount of NO_x allowed to be emitted by a given unit (lbs/MMBtu) and the actual amount of NO_x emitted by the unit (lbs/MMBtu), multiplied by the actual heat input, in MMBtu. Surplus NO_x reductions are calculated each hour for each unit. Compliance on a daily basis is determined by summing the surplus NO_x reductions created by each unit for each 24-hour period. From September 16 of each year to April 30 of the following year, compliance is based on a 30-day rolling average (Btu-weighted). The special permit conditions include example spreadsheets and tables to be used in tracking the surplus NO_x reductions for each unit and for the entire system and demonstrating compliance. The TSD includes a step-by-step example of an emission averaging calculation.

The source of the data used to calculate NMPC's NO_x emissions (lbs/MMBtu and heat input) will be the Continuous Emissions Monitors that have been installed pursuant to 40 CFR part 75. All of NMPC's fossil fired units are subject to the monitoring requirements of 40 CFR part 75. NMPC will submit quarterly compliance reports to New York to meet the NO_x RACT reporting requirements, showing the amount of NO_x generated each hour for each unit, and a summary of exceedances, should they occur.

In order for NMPC to demonstrate RACT compliance and to apply additional surplus NO_x reductions toward RACT compliance at the Champion Deferiet facility, NMPC will calculate the net amount of surplus NO_x reductions that were created by the NMPC system. The special permit conditions also require NMPC to hold at least 1.4 tons (2,800 pounds) of surplus NO_x reductions at the end of each 30-day rolling period, from September 16 to April 30, inclusive. From May 1 to September 15, NMPC must hold at least 1.3 tons (2,600 pounds) of surplus NO_x reductions at the end of each 24-hour period. In the event that less than 1.3 tons are held from May 1 to September 15, NMPC must notify New York and within five days must hold surplus NO_x reductions equal to the shortfall, multiplied by 1.10. Failure to hold the appropriate amount of surplus NO_x reductions, based on the time of the year, is considered a violation of the permit.

Champion's special permit conditions determine compliance using two formulas, depending on the time of year. Both formulas ensure Champion's boilers will not exceed 0.50 lbs/MMBtu,

by subtracting the surplus NO_x reductions received from NMPC, in pounds, from Champion's daily NO_x emissions, in pounds, then dividing that by the daily heat input in MMBtu. Compliance with the 30-day rolling average will be determined by adding the amount of NO_x, in pounds, emitted during the previous 29 days (minus the amount of surplus NO_x reductions available for compliance) to the NO_x emitted during the most recently completed day (minus the amount of surplus NO_x reductions available for compliance that day), and dividing that sum by the sum of the daily heat inputs for the most recently completed 30 days.

The actual NO_x emissions rate for Champion's boilers will be determined through annual emissions testing as the average of three runs at maximum load. Such testing will be conducted using EPA Test Method 7E, with State oversight. Emission results will be used to calculate NO_x mass emissions for the period following testing, not to be applied for the previous year. Champion must maintain records for a period of at least five years of the (1) quantity of coal burned each day, (2) stack test reports, (3) daily total steam flow for each boiler, (4) daily prorated NO_x rate for the combined boilers, and (5) records of surplus NO_x reductions, creditable surplus NO_x reductions and the 10% set-aside.

For Champion, the amount of surplus NO_x reductions available from NMPC for compliance is 1.3 tons or 1.4 tons per day, depending on the time of year, therefore the amount of surplus NO_x reductions needed for compliance will not exceed 1.3 or 1.4 tons per day. From May 1 to September 15, creditable surplus NO_x reductions will be generated daily and defined as the daily difference between the surplus NO_x reductions generated by NMPC and those needed by Champion. In the event NMPC is unable, on a daily basis, to generate surplus NO_x reductions sufficient to satisfy Champion's need, the difference will be deducted from the creditable surplus NO_x reductions accumulated during the previous 30-day period. In the event NMPC notifies Champion that surplus NO_x reductions will be unavailable for a period of 30 consecutive days or more, Champion must submit an alternative NO_x RACT Compliance Plan to New York within 60 days. The Compliance Plan shall include the use of any or all creditable surplus NO_x reductions to remain in compliance with part 227-2 until implementation of the alternative NO_x RACT Compliance Plan. The Compliance Plan will include a plan to comply with the provisions of part 227-

2, a schedule for implementing RACT, and the use of creditable surplus NO_x reductions to offset emissions during the interim period of submittal and implementation of the RACT plan.

The special permit conditions also require Champion to set aside 10% of the 497.2 TPY received from NMPC for use by Champion as a benefit to the environment. Therefore only 447.48 TPY will be used by Champion for compliance purposes, while 49.72 TPY will be retired to benefit the environment.

The special permit conditions will terminate if the Champion Deferiet facility permanently shuts down or if NMPC and Champion terminate their agreement. The special permit conditions will also terminate if New York approves an alternate means for Champion to comply with RACT, such as, some other emission trade subject to EPA approval, or direct compliance with part 227-2 through the implementation of NO_x control technologies and strategies.

C. Consistency of the Emission Trade With Part 227-2 and EPA's Emission Trading Guidance Documents

The special permit conditions for NMPC and Champion include formulas to provide that the emission trade is on a Btu-weighted basis. These formulas ensure that the generation and calculation of surplus NO_x reductions are based on the units in operation during the compliance period. The formulas also ensure the mass emission rate of the units in operation is equivalent to the mass emission rate that would be achieved if each operating unit individually met the applicable RACT emission limit. The NMPC and Champion compliance plans clearly indicate which units at which facility will be included with the emission trade. Since the emission trade includes units owned and operated by two different persons, New York submitted this emission average as a source-specific SIP revision. Lastly, the affected facilities are located in Upstate New York, outside of the New York City severe nonattainment area. Therefore, it is not necessary to include any geographical constraints in the special permit conditions with respect to trades outside severe nonattainment areas, pursuant to part 227-2, section 2.5(b).

The April 9, 1996 submittal letter provides the evidence that New York has the legal authority under State law to approve and implement the compliance plan. The special permit conditions were processed in accordance with part 621.14 for inclusion in the Certificate to Operate.

New York proposed approval of the SIP revision pursuant to part 227-2. Any violation of the special conditions of each source's permit will be enforced as prescribed by Chapter 19 of the New York State Environmental Conservation Law. The emission trade is enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements and is acceptable to the Agency. To verify compliance, NMPC and Champion are required to calculate daily averaged NO_x emissions records and submit these records in quarterly reports as prescribed by the special permit conditions. These conditions ensure compliance on a daily basis and include data obtained exclusively during operating hours to establish the average daily NO_x emissions.

Overall, part 227-2 provides a compliance option for owners of multiple affected units to choose cost-effective control options to meet an overall equivalent emission limit, in order to comply with part 227-2. Should a source not comply with this provision it would constitute a violation of part 227-2 and would subject the source owner or operator to civil and applicable criminal penalties. EPA believes this is sufficient to ensure that sources comply and should EPA have to take enforcement action, it could use the same provision to obtain compliance.

Since the 1970's, EPA has developed several emission trading programs and guidance documents to allow industry and States more flexibility in meeting statutory requirements of the Act. Overall, New York's emission trade between NMPC and Champion to meet the NO_x RACT requirements is consistent with EPA's emission trading guidance.

EPA's "Emissions Trading Policy Statement" (51 FR 43814, December 4, 1986) provides the Agency's historical guidance on emission trading programs (bubbles, netting, offsets and banking) to allow more flexibility in meeting Act requirements. The 1986 Policy discusses how only emission reductions which are surplus, quantifiable, enforceable and permanent may be used in an emission trade.

NMPC's NO_x emission reductions are surplus because the formulas in the special permit conditions are based on the difference between the amount of NO_x allowed to be emitted by RACT and the actual amount of NO_x emitted. Therefore, only those NO_x emission reductions below the RACT-allowable limits are considered surplus and available for use by Champion.

NMPC's NO_x emissions (lbs/MMBtu and heat input) are quantifiable through

the Continuous Emissions Monitors that have been installed pursuant to 40 CFR part 75.

The legally-enforceable vehicles for the emission trade are the special permit conditions for NMPC and Champion, approved by New York on December 2, 1997.

NMPC's emission reductions used by Champion are considered permanent because NMPC's special permit conditions require NMPC to hold at least 1.3 or 1.4 tons of surplus NO_x reductions depending on the time of year. NMPC's NO_x emission reductions are also considered permanent because they are based on the implementation of various control strategies.

"The NO_x Supplement to the General Preamble" (57 FR 55620, November 25, 1992) specifies that in cases where States adopt an areawide averaging rule for a group of sources, the emission limits, emission quantification methods, and monitoring and recordkeeping requirements applicable to each owner/operator in the group must be clearly specified. In addition, the rule must specify appropriate penalties for violation of the various requirements. Also, SIP measures must be converted into legally-enforceable vehicles such as a regulation or permit. EPA's current thinking is to also allow trading for other NO_x source categories, either within one facility, among several facilities or among several emission units at a facility.

While New York's averaging provision and this source-specific SIP revision are not intended to be a generic areawide trading rule, the Region believes this emission trade between NMPC and Champion is a logical extension of the NO_x Supplement. New York's emission trade between NMPC and Champion is consistent with EPA's general guidance (NO_x Supplement) on trading to meet the NO_x RACT requirements. The legally-enforceable vehicles for the emission trade are the special permit conditions for NMPC and Champion, approved by the New York on December 2, 1997. The permits clearly specify the emission limits, emission quantification methods, testing, monitoring and recordkeeping requirements applicable to each owner/operator in the trade. Civil and criminal sanctions associated with a violation of the special permit conditions are found within Article 71 of the State regulation.

EPA's Economic Incentive Program (EIP) Rules (40 CFR part 51, subpart U) contain the rules and guidance for EIP's that a State may choose to adopt for any criteria pollutant, as explicitly allowed for in the Act. The EIP rules provide an opportunity to encourage the

development and early implementation of appropriate EIP's. Since the EIP rules and guidance are broadly applicable to any kind of EIP, the guidance generally covers the same type of emission trading programs that have historically been addressed by the Emissions Trading Policy Statement. Therefore, trades which fall under the Emissions Trading Policy Statement represent one particular model for how States could choose to design such a program that would be approvable under the EIP rules.

Since the NMPC and Champion emission trade is consistent with the provisions of the Emissions Trading Policy Statement, it is also consistent with the EIP guidance. In addition to meeting the criteria in the Emissions Trading Policy Statement, the NMPC/Champion emission trade provides for additional emission reductions which meet the "benefit-sharing" goal of the EIP rules and guidance.

D. Summary

Major sources of NO_x are numerous and varied. As a result, New York has tried to allow for some flexibility in part 227-2. Part 227-2 allows owners and operators of multiple units to average emissions over all the units operated, with some appropriate restrictions. The use of post combustion control is not precluded for any source category. The owner or operator of a facility may choose to use post combustion control as a cost-effective control strategy for a particular application, as a means of "over control" for an averaging scheme or for use in an emission offset plan.

The source-specific SIP revision provides an innovative way for an affected source to achieve emission reductions (at less cost) equal to or beyond the reductions required by NO_x RACT. As a result of the emission trade, NMPC is required to create emission reductions of at least 1.3 or 1.4 tons of NO_x per day. As mentioned in its Fourth Quarter 1995 Compliance report, NMPC holds surplus NO_x reductions for Champion of 42 tons per 30-day rolling period (1.4 tons/day x 30 days). The report shows NMPC's 30-day compliance margin ranges from 323 to 543 tons, which is well beyond the amount to hold for Champion. For Champion, the emission trade allows the facility to exceed its NO_x allowable emissions, but only by the amount traded. For example, in a worst case scenario, emission increases by Champion will be contemporaneously offset by equivalent emission decreases at NMPC. Also, without the emission trade, Champion would have requested a waiver from New York, which if

granted would have resulted in emission increases greater than 1.3 or 1.4 tons per day. In addition, Champion is required to retire 10% of the surplus NO_x reductions it receives from NMPC as a benefit to the environment.

EPA has reviewed NMPC's and Champion's applications and New York's source-specific SIP revision for completeness and approvability. EPA agrees with New York's determination that the emission trade between NMPC and Champion provides an innovative way for an affected source to achieve emission reductions equal to or beyond the reductions required by NO_x RACT, at less cost to industry. While this emission trade does not constitute traditional RACT, it does provide a compliance option for owners of multiple affected units to choose cost-effective control options to meet an overall emission reduction equivalent to RACT. The permit conditions for the emission trade serve as approved SIP emission limits for these facilities. Finally, EPA believes these permit conditions address the criteria of surplus, quantifiable, enforceable and permanent and therefore, proposes approval.

It should be noted that New York, the other OTR States and EPA, are developing future NO_x trading rules which will have broader applicability than this source-specific SIP revision. New York's adoption of the OTR's NO_x Budget Program and finalization of EPA's "Ozone Transport SIP Call" may replace the emission trade discussed in this proposed action, as well as establish an overall, generic emission trading program.

Conclusion: EPA is proposing full approval of the source-specific permit conditions requiring NMPC and Champion to trade emissions to meet the requirements of NO_x RACT. *EPA is proposing approval of these special permit conditions, as submitted by the State of New York on April 9, 1996 and supplemented on February 2, 1998, as part of the SIP.*

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal

governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The Regional Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: May 13, 1998

Herbert Barrack,

Acting Regional Administrator for Policy and Management.

[FR Doc. 98-13610 Filed 5-20-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL-6100-9]

RIN 2060-AG85

Opportunity To Comment on Documents Used by the Department of Energy To Certify the Rocky Flats Environmental Technology Site To Ship Transuranic Waste to WIPP, as Required in: Criteria for the Certification and Re-certification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations: Certification Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents used to certify the Rocky Flats Environmental Technology Site (RFETS) to ship transuranic radioactive waste to the Waste Isolation Pilot Plant (WIPP). The documents include: "Rocky Flats Environmental Technology Site Transuranic (TRU) Waste Management Manual" (dated January 7, 1998) and "Rocky Flats Environmental Technology

Site Waste Isolation Pilot Plant Quality Assurance Project Plan" (dated May 14, 1997). These documents are available for review in the public dockets listed in ADDRESSES. The EPA will be using these documents to evaluate RFETS's quality assurance and waste characterization programs and processes. The EPA will perform an inspection at RFETS the week of June 22-26, 1998.

DATES: EPA is requesting public comment on these documents. Comments must be received by EPA's official Air Docket on or before June 22, 1998.

ADDRESSES: Comments should be submitted to: Docket No. A-93-02, Air Docket, Room M-1500 (LE-131), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

The DOE documents, "Rocky Flats Environmental Technology Site Transuranic (TRU) Waste Management Manual" (dated January 7, 1998) and "Rocky Flats Environmental Technology Site Waste Isolation Pilot Plant Quality Assurance Project Plan" (dated May 14, 1997) are available for review in the official EPA Air Docket in Washington DC, Docket No. A-93-02, Category X-B, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday-Thursday, 10am-9pm, Friday-Saturday, 10am-6pm, and Sunday 1pm-5pm; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Monday-Thursday, 8am-9pm, Friday, 8am-5pm, Saturday-Sunday, 1pm-5pm; and in Santa Fe at the Fogelson Library, College of Santa Fe, Hours: Monday-Thursday, 8am-12am, Friday, 8am-5pm, Saturday, 9am-5pm, and Sunday, 1pm-9pm.

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: Chuck Byrum, Office of Radiation and Indoor Air, (505) 665-7555 or call EPA's 24-hour toll-free WIPP Information Line, 1-800-331-WIPP.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Energy (DOE) is developing the Waste Isolation Pilot Plant (WIPP) near Carlsbad in southeastern New Mexico as a potential deep geologic repository for disposal of transuranic (TRU) radioactive waste. As defined by the WIPP Land Withdrawal

Act (LWA) of 1992, as amended (Pub. L. No. 102-579), 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. Most TRU waste consists of items contaminated during the production of nuclear weapons, e.g., rags, equipment, tools, and organic and inorganic sludges.

On May 13, 1998, the U.S.

Environmental Protection Agency (EPA) announced its final compliance certification decision to the Secretary of Energy. This decision states that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR Part 191 and the WIPP Compliance Criteria at 40 CFR Part 194.

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 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; and (2) prohibit shipment of TRU waste for disposal at WIPP from any site other than LANL until EPA has approved, in accordance with the approval process set forth at § 194.8(b), the procedures developed to comply with the waste characterization requirements of § 194.24(c)(4). As part of the EPA's decision-making process, DOE is required to submit to EPA appropriate documentation used to certify each DOE waste generator site for shipment of transuranic 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.

The documents submitted to EPA include: "Rocky Flats Environmental Technology Site Transuranic (TRU) Waste Management Manual" (dated January 7, 1998) and "Rocky Flats Environmental Technology Site Waste Isolation Pilot Plant Quality Assurance Project Plan" (dated May 14, 1997). The "Rocky Flats Environmental Technology Site Transuranic (TRU) Waste Management Manual" sets forth the waste characterization procedures for TRU wastes at Rocky Flats. The "Rocky Flats Environmental Technology Site Waste Isolation Pilot Plant Quality Assurance Project Plan" sets forth the quality assurance program that DOE purports to comply with the