



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2013-0293; FRL-9821-6]

Biennial Determination of the Waste Isolation Pilot Plant's Compliance with Applicable Federal Environmental Laws for the Period 2010 to 2012

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Based on documentation submitted by the U.S. Department of Energy (DOE) for the Waste Isolation Pilot Plant (WIPP), the U.S. Environmental Protection Agency (EPA or “we”) determined that, between 2010 and 2012, DOE operated the WIPP facility in compliance with applicable Federal statutes, regulations, and permit requirements designated in Section 9(a)(1) of the WIPP Land Withdrawal Act, as amended. The Secretary of Energy was notified of the determination via a letter from EPA Acting Administrator Bob Perciasepe dated May 29, 2013.

FOR FURTHER INFORMATION CONTACT: Nick Stone; telephone number: (214) 665-7226; address: WIPP Project Officer, Mail Code 6PD-O, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, TX 75202.

SUPPLEMENTARY INFORMATION:

I. General Information

A. *How Can I Get Copies Of This Document and Other Related Information?*

1. *Docket.* EPA has established a docket for this action under Docket ID No. **EPA-HQ-OAR-2013-0293; FRL-9821-6**. Publicly available docket materials are available either

electronically through www.regulations.gov or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 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. 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.regulations.gov>.

II. Background

EPA made this determination under the authority of Section 9 of the WIPP Land Withdrawal Act (WIPP LWA, Pub. L. Nos. 102-579 and 104-201). Section 9(a)(1) of the WIPP LWA requires that, as of the date of the enactment of the WIPP LWA, DOE shall comply with respect to WIPP with (1) regulations for the management and storage of radioactive waste (40 C.F.R. Part 191, Subpart A); (2) the Clean Air Act; (3) the Solid Waste Disposal Act; (4) the Safe Drinking Water Act; (5) the Toxic Substances Control Act; (6) the Comprehensive Environmental Response, Compensation, and Liability Act; and (7) all other applicable Federal laws pertaining to public health and safety or the environment. Section 9(a)(2) of the WIPP LWA requires DOE biennially to submit to EPA documentation of continued compliance with the laws, regulations, and permit requirements set forth in Section 9(a)(1). (DOE must also submit similar documentation of compliance with the Solid Waste Disposal Act to the State of

New Mexico.) Section 9(a)(3) requires the Administrator of EPA to determine on a biennial basis, following the submittal of documentation of compliance by the Secretary of DOE, whether the WIPP is in compliance with the pertinent laws, regulations, and permit requirements, as set forth at Section 9(a)(1).

We determined that for the period 2010 to 2012, the DOE-submitted documentation showed continued compliance with 40 CFR Part 191, subpart A, the Clean Air Act, the Safe Drinking Water Act, the Toxic Substances Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act. With respect to other applicable Federal laws pertaining to public health and safety or the environment, as required by Section 9(a)(1)(G), DOE's documentation also indicates that DOE was in compliance with the Clean Water Act, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and certain statutes under the jurisdiction of the Department of Interior.

This determination is not in any way related to, or a part of, our certification and recertification decisions regarding whether the WIPP complies with EPA's disposal regulations for transuranic radioactive waste at 40 CFR Part 191.

Dated: May 29, 2013.

Bob Perciasepe,
Acting Administrator.

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