



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2024-0309; FRL-12689-01-OAR]

**Planned Change Request for Waste Isolation Pilot Plant Replacement Panels 11 and 12;
Closing of Public Comment Period**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability with request for public comment; closing of public comment period.

SUMMARY: On July 16, 2024, the Environmental Protection Agency (EPA or the Agency) announced for public comment the availability of a Planned Change Request (PCR) submitted by the U.S. Department of Energy (DOE) to modify the Waste Isolation Pilot Plant (WIPP). The proposed change will involve adding two additional waste panels west of the current repository to replace lost disposal capacity resulting from the 2014 radiological incident and ground control issues throughout WIPP's operational history. A 60-day comment period was provided for the PCR that expired on September 16, 2024. After requests from stakeholders for an extension, the EPA reopened the public comment period indefinitely on October 22, 2024. The Agency is now announcing the closure of the public comment period.

DATES: With this notice, the Agency is closing the public period for the documents published on July 16, 2024 at 89 FR 57887 and extended on October 22, 2024 at 89 FR 74348 on

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2024-0309, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.
- E-mail: a-and-r-Docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2024-0309 in the subject line of the message.

- US Postal Service Mail: U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- Hand Delivery/Courier: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. EPA-HQ-OAR-2024-0309. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments, see the **SUPPLEMENTARY INFORMATION** section of this document. A copy of the DOE's 2024 PCR is linked on EPA's WIPP website (<https://www.epa.gov/system/files/documents/2024-03/24-0168-wipp-pcr-panels-letter-enclosures.pdf>).

FOR FURTHER INFORMATION CONTACT: Ray Lee, Radiation Protection Division, Office of Radiation and Indoor Air, Mail Code 6608T, Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; telephone number: (202) 343-9463; email address: lee.raymond@epa.gov.

SUPPLEMENTARY INFORMATION: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2024-0309, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section.

Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web,

cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Tips for preparing your comments. When submitting comments, remember to:

- Identify the document by docket number, subject heading, *Federal Register* date, and page number.
- Provide a brief description of yourself and your role or organization.
- 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.
- Illustrate your concerns with specific examples 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.

I. Background

The Waste Isolation Pilot Plant (WIPP) is a transuranic (TRU) radioactive waste disposal system developed by the DOE that is located near Carlsbad in southeastern New Mexico. TRU radioactive waste is emplaced about 650 meters (2,150 feet) underground in an ancient layer of salt that will eventually “creep,” encapsulate, and isolate the waste from the surrounding environment. The 1992 WIPP Land Withdrawal Act (Pub. L. 102–579) (LWA) limits radioactive waste disposal in the WIPP to TRU radioactive wastes generated by defense-related activities.¹

¹ 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 provides EPA with authority to oversee and regulate the WIPP. The WIPP must meet EPA's generic radioactive waste disposal standards at 40 CFR part 191, subparts B and C. 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.

In 1996, the Agency issued the WIPP Compliance Criteria, which are located at 40 CFR part 194, as mandated by WIPP LWA, section 8(c).² DOE submitted the initial WIPP Compliance Certification Application (CCA) in 1996. The Agency then issued the certification decision on May 18, 1998, determining that the WIPP met the standards for radioactive waste disposal. Since the 1998 certification decision, EPA has conducted ongoing independent technical reviews, certification/recertifications, and inspections of all WIPP activities related to compliance with the Agency's disposal regulations. The WIPP has been recertified four times since the initial CCA in 1996, with the most recent recertification decision occurring in 2022.³

As part of the original design of the WIPP repository in the initial CCA, the underground waste disposal region at WIPP is divided into panels. A panel is a group of rooms mined into the salt, connected by tunnels called drifts. EPA certified the WIPP in 1998 and most recently recertified the WIPP in 2022 based on a planned footprint of 10 waste panels.

On March 14, 2024, EPA received a planned change request (PCR) from DOE per 40 CFR 194.4(b)(3) that seeks the Agency's approval to add two replacement waste panels to the west of the current repository. These two panels, 11 and 12, are being constructed to replace waste disposal volume that was lost in panels 7 and 9 due to the 2014 radiological release that

² 61 FR 5224–5245 (February 9, 1996).

³ 87 FR 26126 (May 3, 2022).

contaminated the south end of the repository.⁴ Additionally, panels 1 and 2 were not completely filled due to ground control issues from being kept open so long before waste was emplaced. DOE has calculated that to replace the volume lost, 1.7 panels of waste volume will be needed, rounded up to 2 panels for construction.⁵ DOE also states that the waste volume with panels 11 and 12 will not exceed the LWA waste disposal volume limit. The PCR contains a performance assessment DOE has conducted to support a demonstration that the repository will continue to meet the numeric release limits of EPA's disposal regulations for the WIPP. As part of the performance assessment, DOE calculated releases based on a repository design of 19 panels, which is the anticipated WIPP repository configuration at the time of closure.

With this PCR, DOE is only seeking EPA's approval of the two new planned panels and provided documentation to address the two new panels within the context of the 19-panel design. However, after additional review the Agency requested⁶ DOE to submit a subsequent performance assessment using a 12-panel configuration as a sensitivity study to supplement the calculations already provided with the initial submission. DOE provided its last set of responses to EPA questions on April 21, 2025. The Department would have to submit a separate request for approval of any additional panels beyond panels 11 and 12.

II. Request for Comments/Closure of Public Comment Period

Over the past year, EPA has solicited public comment on DOE's documentation of its PCR to add two new waste panels—panels 11 and 12—at the WIPP facility, and the demonstration of compliance with EPA's disposal regulations. EPA has now received and posted for public review all information requested from DOE. Additional background information related to the Agency's review of DOE's application—including an electronic copy of the PCR

⁴ For a discussion of the 2014 incidents at the WIPP, see EPA's third recertification determination. 82 FR 33106, 33107 (July 19, 2017).

⁵ Knerr, R. (DOE/CBFO), Dunagan, S. (NWP LLC). *Class 3 Permit Modification Request* [Letter to Maestas, R. (NMED)] (July 30, 2021).

⁶ Peake, T. (EPA). Re: Twelve-Panel PA sensitivity study for EPA's review of the Waste Isolation Pilot Plant Replacement Panel Planned Change Request (November 26, 2024).

itself—is available in the public docket⁷ established for this action and on the EPA WIPP website.⁸

As outlined in this notice, the Agency will continue to accept comment until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Upon completion of EPA’s evaluation of the PCR, the Agency will announce a decision on the proposed two new panels along with a response to comments document and related technical support documents.

Jonathan D. Edwards,

Director, Office of Radiation and Indoor Air.

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⁷ Docket ID No. EPA-HQ-OAR-2024-0309 (<https://www.regulations.gov>).

⁸ <https://www.epa.gov/radiation/wipp-news#WIPP-PCR>