

DRAFT Subpart W Quarterly Call – April 3, 2013

Attendees

EPA: Reid Rosnick (ORIA), Angelique Diaz (Region 8), Susan Stahle (OGC)

Environmental Groups

Jennifer Thurston (INFORM), Sharyn Cunningham, Carol Dunn, (CCAT), Sarah Fields (Uranium Watch)

Other

Travis Stills (Energy Minerals Law Center), Darrell Liles, (SENES), Kay Hawkle (Citizen in Cañon City, CO)

Industry

Oscar Paulson (Kennecott), John Schmuck (Chemical Processes), John Cash (Ur-Energy), Mike Thomas (Uranerz), Scott Sherman (Uranium One), Jim Cain (Cotter)

UPDATE (Reid)

- No comments were received on January minutes
- Follow up on 40 CFR Part 192 Rulemaking Efforts – rulemaking headed for final agency review (FAR) in late Spring 2013. Last step before getting in line for Office of Policy and Office of Management and Budget
 - Sarah Fields – recommends EPA putting up Part 192 rulemaking information on the website for the public
 - Reid – will pass this information on to the workgroup
(Discussion on the FAR process and where it falls in the review process, comparing the 192 status to the Subpart W process. Reid expands on the process.)
- Informed attendees that senior managers are aware of concerns over delay regarding Subpart W going to OMB and thanks everyone for patience. Any further concerns should be brought up to the office of the Administrator
- Currently Subpart W is scheduled to go to OMB on April 25, 2013
 - Travis requests that documentation on this be posted online
 - Reid says he will look into whether or not the document is releasable to the website

DISCUSSION

Jennifer Thurston: Mentions a new conventional mill application in the queue for New Mexico (did not mention where this application is located). A shame if EPA would miss the boat twice,

and ideally the rulemaking will be completed before the NRC (Nuclear Regulatory Commission) license is issued for the New Mexico conventional mill

Reid: Began providing a historical perspective of the uranium industry in relation to the Subpart W Rulemaking. Was cut off/interrupted by J. Thurston expressing her frustration and stating that she is not interested in hearing historical perspective. So noted

Kay Hawlee: Expresses general frustration as well and announces her presence on the call (private citizen from Cañon City, CO)

Sarah Fields: Asks to what extent the rule revisions address conventional mills.

- Reid: States that the rule will address conventional mills, in situ recovery, as well as heap leach but that he cannot go into the details of the proposed rule.
- Travis Stills: Expresses that this is the purpose of the call and finds it ridiculous that EPA won't discuss the details.
- Reid: Informs everyone that until the rule is proposed it is considered to be internal and deliberative. Mentions that the rule will add in situ leach and heap leach information, new definitions, as well as addresses conventional milling.
- Travis Stills: States that deliberative materials can be shared at EPA's discretion
- Susan Stahle: States that the two sides differ in their perspectives, and that's where we'll stay. We are exercising our discretion. Susan informs the attendees that stakeholder involvement has been important and that stakeholders have been able to provide input. She stated that it was never the intention of EPA to disclose our decisions prior to them being proposed, and that this is how we conduct rulemakings. EPA does not disclose the contents of our rule until proposed. The Subpart W process has allowed stakeholders to provide input and has worked well.
- Travis Stills: Feels that there is no quality of participation by stakeholder.

Sarah Fields: Mentions an open-pit uranium mine associated with a proposed heap leach facility. Asks if open-pit uranium mines will be revisited to address the need for NESHAPs regulation.

- Reid: Informs everyone that underground mines are regulated by NESHAP Subpart B, original documents will have to be reviewed to determine original logic and he does not have an answer right now.
- Sarah Fields: Believes that the logic was that it was just not considered at the time.
- Oscar Paulson: States that there was some consideration of risk involved, at that time, and certainly now, there was a belief that there is no risk from the pits. *Note that after the call, Oscar provided the language from the original 1989 rulemaking. Friday, December 15, 1989 – Final Rule 40 CFR Part 61 – National Emissions Standards for Hazardous Air Pollutants; Radionuclides; Final Rule and Notice of Reconsideration (Federal Register*

Volume 54, Number 240 Friday, December 15, 1989 Page 51678): The agency concluded in 1989 that the baseline risk from open pit uranium mines is acceptable.

3. Application of Decision Methodology to Surface Uranium Mine Source Category

The decision that results from the application of the multifactor approach to the surface uranium mine source category is described below.

Decision on Acceptable Risk. As stated earlier, the maximum individual risk to any individual is 5×10^{-6} which is lower than the benchmark of approximately 1×10^{-4} . The estimated annual incidence within 80 km is 0.026 fatal cancers per year. In addition, only 24,000 people out of 30 million (<0.1 percent) are exposed to risks greater than 1×10^{-6} . Based on these factors EPA concludes that the baseline risk is acceptable.

- Sarah Fields: Feels EPA needs to revisit with new operations being proposed.
- Reid: Takes the point, indicates this is outside of Subpart W.
- Sarah Fields: Believes the issues are from cumulative impacts from mining/milling right next to each other. Finds this a significant issue that needs to be considered.
- Reid: Informs Sarah that once the proposed rule is out, if she feels it has not been adequately addressed she should comment accordingly so it will be addressed.

Travis Stills: Asks if any data has been collected in the last two years on tailings piles.

- Reid: States that existing impoundments (in operation before 12/15/1989) still in operation are collecting radon flux data.
- Travis Stills: Brings up the 2012 semi-annual report on Cotter (in Cañon City, CO) and claims there is a “spike” as well as abnormal things going on that need to be folding into EPA considerations. Informs the group that the document is on the CDPHE website and he will provide a link to Reid.
- Reid: Informs the group that Colorado is an NRC Agreement State and would like the link from Travis.
- Travis Stills: States that he is not talking about regulatory oversight, but instead talking about data that should go into EPA’s decision making.
- During the call Travis provides Reid with several CDPHE web links to the data.

March 1 [2nd Half 2012 Semiannual Effluent Report](#) 

[2nd Half 2012 Semiannual Performance Criteria Report](#) 

[1st Half 2012 Semiannual Effluent Report Supplement](#) 

- <http://www.colorado.gov/cs/Satellite?c=Page&childpagename=CDPHE-HM%2FCBONLayout&cid=1251638999402&pagename=CBONWrapper>

There were no further questions or comments.

NEXT CALL: Currently falls on July 4th, proposed Thursday, July 11, 2013 at 11am EST as an alternative. No objections on the call. **Next call will be Thursday, July 11, 2013, 11:00 a.m. EST.**