

Subpart W Quarterly Conference Call
July 7, 2011, 11:00 am – 12:00 pm
1310 L Street NW, Room 502, Washington, DC

[DRAFT] Conference Call Notes

Meeting Participants:

EPA HQ: Reid Rosnick, Emily Atkinson
EPA Regions: Angelique Diaz (Region 8)
CCAT: Lynn Holtz Minasi, Anita Minton, Paul Carestia
Industry: Oscar Paulson (Kennecott), Wayne Heili, John Cash (UR Energy), Mike Newton (Neutron Energy), Miriam Wetly (Chemical), Rita Meyer, Jim Cain (Cotter Corporation), Richard Blubaugh(Powertech), Toby Wright (Titan Uranium)
Other: Travis Stills (Energy Minerals Law Center), Andrew Maylor, Jennifer Hanston (Sheep Mountain Alliance)

Status Update on Action Items from Last Call

R. Rosnick: I don't have a great deal of information right now. We have been having some IT issues here. I made a presentation on May 26 to the NRC/NMA Uranium Recovery Workshop and that presentation has not made it up to the website yet, but we are working to get it posted as soon as possible.

T. Stills: A key component of the settlement is to have the website available and the staff resources must be put towards updating it in a timely manner

R. Rosnick: I will tell you that I am still working on it.

The other thing I want to tell you about is we are progressing very well on drafting the options and preamble to a draft regulation and language. We have received direction from all of the assistant administrators and regional administrators. The preamble and draft language is being worked on now. Since these are internal discussions, I am not at liberty to tell you what we are discussing in the work group, because it is internal and deliberative.

As far as process at the Agency, we expect to have the final draft by the end of August. The final agency review will then happen where the senior management will then have its opportunity to provide input prior to the draft rule being sent to the Office of Management and Budget.

Office of Management and Budget then reviews it for up to 90 days, when it will provide comments back to us. After this review we will address any comments received by OMB. After that the rule will then go to Gina McCarthy (Assistant Administrator for the Office of Air and Radiation)

for her review, signature and then be published in the federal register. We are shooting to have this all completed by December 2011.

O. Paulson: You have a contractor involved in this project related to the review. I thought they would put together a report and then it would be reviewed by the EPA. Has the report been put together?

R. Rosnick: Yes, the report has been put together and it is being reviewed by the EPA staff. When it is finalized, it will then be posted on the website. I would expect it to be completed in the next two months.

O. Paulson: The internal review should be available first before the draft regulations are actually put together? The comments from the public should be considered before the regulation is written.

R. Rosnick: The work group has seen it and commented on it.

O. Paulson: I understand you cannot discuss the draft regulations at this time, but can you tell us what is in the report?

R. Rosnick: I can try. Back in 1989, the EPA used risk modeling called AIRDOS to determine the risk levels from radon for receptors out to 80 km. At the time, I believe and I am not absolutely certain on this number, the risk average numbers were around 10^{-5} , I would have to go back to look at that.

So what we have done on this current rulemaking is use the most recent version of AIRDOS, now known as CAP88 version 3. We went to the existing facilities and used CAP88 version 3 to see if risk levels changed. The code performs the calculations with data from the facilities, with metrological data and various assumptions used. The report describes all of this. The work group had comments and corrections and the contractor made them. Now our independent review by internal EPA employees is being conducted. We expect to have their comments within a month.

O. Paulson: How are the references listed?

R. Rosnick: The data sources should be easily determined to be complete and applicable.

O. Paulson: We would want to be sure that site specific data is used.

R. Rosnick: Once we have the final review, I am sure you will be able to comment on it and let us know if other data sources should be used.

T. Wright: Is there going to be timely public comment on the potential rulemaking?

- R. Rosnick: One component on this is the proposed regulation is that it is just that – a proposal. With a 60 day review process when comments can come in. There is always an opportunity to provide comments to us before the regulation goes final.
- M. Newman: Can you provide any indication on whether or not the report substantially alters the risk assessment model?
- R. Rosnick: Our office of general council representative is not on the line, so I cannot ask her if I can answer that question. The way the question was asked, it is requesting me to discuss whether or not our modeling guidelines would change. I am not at liberty to discuss it at this time.
- T. Stills: I think this is an example of EPA not sharing data as they should. Data should be shared immediately, not just when it is a result you like.
- R. Rosnick: Do we have any other questions?
- No other questions?
- T. Stills: What we agreed to in the settlement is not being adhered to. Your functions seem to be a gatekeeper to keep us out rather than to keep information flowing to stakeholders. Please pass that along to your superiors because I would like your role to change.
- Have you been collecting data at the Cotter Facility?
- R. Rosnick: The data collection there has been sent to the Colorado Department of Public Health and Environment.
- T. Stills: Do you know that their data collection has serious flaws because of laboratory errors? That is a source of important data and I don't see EPA holding the facility to its reporting responsibilities.
- R. Rosnick: I will pass that along to OGC.
- Ambiguity is in the definition of operation.
- T. Stills: For purposes of rulemaking this is something that should be taken care of. It is a serious concern that should be changes.
- R. Rosnick: Operation is defined as “accepting new tailing” according to the current rule. That is something we are looking at in this current revision.

O. Paulson: Subpart W applies to an operating impoundments, but once they start closure, and then under milestone requirements radon flux tests only are required when the barrier goes in.

T. Stills: I think the Cotter Facility may not be in compliance with their milestones because if they are not then they need to go back to monitoring.

A. Diaz: The regulatory authority during closure of the impoundments is the state and EPA does not have authority to step in.

T. Stills: So current regulations allow for staff to ignore the rules?

Should we expect an environmental analysis when the rulemaking is released later this year? Any other types of analysis – ground water, soil – outside of the risk assessment?

R. Rosnick: We have done assessments of radon release to the air and its impact from a risk standpoint to receptors. Since this is a Clean Air Act rule, we are really focusing on the air analysis right now. In terms of a technical analysis, that has been performed.

I thank you all for attending. Our next call will be on October 6, 2011.

Send me an email or give me a call if anything comes up between now and then.