

Subpart W Stakeholder Conference Call

July 5, 2012

Attendees

EPA: Reid Rosnick, Phil Egidi, ORIA, Susan Stahle, OGC

ENVIRONMENTAL GROUPS: Sharyn Cunningham, Carol Dunn, Paul Carestia (CCAT), Sarah Fields (Uranium Watch), Jennifer Thurston (Information Network for Responsible Mining)

INDUSTRY: Oscar Paulson (Kennecott Uranium), Jim Cain (Cotter), Joann Tischler (Denison), Dawn Volkman (Uranerz), Mike Thomas (?), Wayne Heile (URS), Scott Sherman (Uranium 1), John Schwenk (Cameco), Mike Newman (Neutron Energy), Frank Filas (Energy Fuels)

OTHER: Katie Sweeney (National Mining Association), Janet Johnson (TetraTech), Chris Johnston (Intermountain Labs)

Reid - Status of Rulemaking – We held our final Agency review on April 19, 2012. There were several loose ends that need to be cleared up and the entire package was sent to our Office of Policy on May 10. Office of Policy submits all EPA regulations to the Office of Management and Budget (OMB). EPA has a lot of regulations, and the Office of Policy prioritizes which rules and when go to OMB. The Subpart W package has been placed in the pipeline and is scheduled to be submitted on August 3 for OMB 90 day review. Also, given that we are nearing an election, OMB's limited staff is looking more closely at all regulations. So, many regulatory packages are being delayed due to the OMB bottleneck. We hope that it can get to and through OMB soon, but we cannot at this point say when it will actually get published in the Federal Register.

Questions/Comments from the group?

Oscar Paulson: Thanks for placing my comments on the website so quickly. At the NRC/NMA meeting several months ago there was a presentation with data on radon flux from fluids. It should also be placed on the website.

Reid: I know there is a link on the NMA website that we can link to on the Subpart W website.

Paul Carestia: When are you going to respond or post responses to my questions?

Reid: I know that I have responded to some of your questions in the past via email. I have not maliciously withheld them from the website, I frankly just forgot.

Katie Sweeney: Regarding the OMB review, they many times take longer than the official 90 day review. In many cases, rules may stay at OMB for significantly long periods of time.

Jennifer Thurston: Expressed disappointment with EPA failure to get the process started earlier, not meeting deadlines, etc. The Pinon Ridge mill should have been permitted under the provisions of a new Subpart W rule, not the existing requirements. These delays are very frustrating.

Sarah Fields: Please tell me the difference between Subpart W and the 40 CFR 192 rule. Also, please give an update on the progress of this rule.

Reid: The differences are: Subpart W is a regulation authorized by the Clean Air Act. It specifically regulates radon emissions from uranium recovery facilities. 40 CFR 192 is a regulation authorized by the Uranium Mill Tailings Radiation Control Act (UMTRCA), and authorizes the NRC to implement regulations written by EPA to provide for the disposal, long-term stabilization, and control of these mill tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public. 40 CFR 192 is currently being revised. It is estimated that the proposed rule will be issued early next year.

Unknown: Does EPA do independent radon monitoring at uranium recovery facilities? If not, why not? It doesn't seem like a company's test results should be believed without independent verification.

Reid: EPA does not perform independent radon monitoring at these facilities. The monitoring procedures are specifically outlined in the regulations, and there are quality control methods in place to assure that the laboratories are properly analyzing the samples the company collects.

Scott Sherman: Also, our company notifies (in this case) the State of Utah, and they always send representative to observe how are samples are collected and sent to the lab.

Sharyn Cunningham: In January I sent comments to EPA regarding issues I had with the risk assessment document that had been posted on the website. How did you address those comments in any revised risk assessment, and why are my comments not posted on the website?

Reid: I did review your comments with our contractor. We decided that at this point, in order to move the project forward we would keep the document as it is and refer back to your comments later during the proposal period.

Sharyn: It is frustrating that you ask for our comments, and you neither post them nor use them when they could be of value to the project. We're frustrated that the process is not transparent and open. When will you be posting communication that we have with you, such as emails?

Susan Stahle: We need to think about how or if we can do that. There are several issues we need to consider. It is possible that some or all of the information you request to be posted could be privileged, and therefore we may choose not to post it. For example, currently the proposal (preamble and rule language) and the Background Information Document are internal Agency documents that we are not yet releasing to the public. Also, there may be some past emails between you and Reid that, if now posted on the website, could be confusing to the public, especially before the proposed rule is released for public comment. We were clear in the Settlement Agreement that we would not post privileged documents on the website. However, we have made an effort to post anything that could be released. We will find any responses we have made to you and review them to determine if they can be posted on the website.

Reid: There may be some inadvertent emails or responses that I have not posted, but it was not out of malice, I just forgot to post them. Suggested to Sharyn that some of the information she requests may already be in the thousands of emails we released as a result of a Freedom of Information Act request. Sharyn stated that she looked through most of the emails, and didn't see the responses.

Next call is October 4, 2012 at 11 am east coast time.