

Subpart W Quarterly Conference Call
October 6, 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: Sharyn Cunningham, Lynn Holtz Minasi
Industry: Oscar Paulson (Kennecott), Scott Charmin (Uranium One),
Jeff Kelsey (UR Energy)
Other: Travis Stills (Energy Minerals Law Center), Katie Sweeney (National Mining Association)

R. Rosnick: This is our regularly scheduled quarterly call.

When we last spoke in July, we had just finished our Options Selection Meeting with our AA, where we presented a number of options and how the work group was proposing to address revising the Subpart W regulation. A number of approaches were reviewed and we were given direction on how to proceed.

The work group has drafted preamble and regulation language – what you would actually see when it is published in the Federal Register. All the work group members have reviewed and submitted comments. It is now with OGC and after we receive those comments, the work group and OGC comments will be reconciled. The new draft then goes to the work group for review one more time. Then we have an internal Agency Review, which is the final step. Once we receive approval there, it goes to OMB, who has up to 90 days to review and approve it. We will reconcile any comments from OMB and then it goes to the EPA AA for signature and then is published in the federal register.

I can now open it up for questions.

T. Stills: With the settlement in mind, there has not been much released and posted to the website. Any plans on updating it?

R. Rosnick: I anticipate having the risk assessment document probably in the next 3 weeks or so. EPA's internal reviewer had been in the hospital for some time and we lost his expertise in the review process. Now that he is back we can move that review forward.

- T. Stills: Anything from 2011 that has been produced? There is nothing recent that has been produced. We had expected that the EPA would produce more information for the affected communities. You have an opportunity for more outreach before the rule is published in the federal register. More data that is held by the EPA should be published before the new rule comes out.
- R. Rosnick: There are several documents on the website of compilations of data that specifically addresses technical questions you may have. I would more than happy to discuss any of those documents, but I don't get responses from folks.
- T. Stills: Maybe we should schedule a call for a more detailed update from you.
- R. Rosnick: With the preamble and proposed rule still in a confidential and deliberative state, I am not at liberty to discuss a lot of the material.
- T. Stills: There is a lot I believe with certainty that can be shared with the general public. We would like to follow-up with you to have another call to discuss it. If more technical and background information can be published before the rule is published it would be helpful.
- O. Paulson: Our primary concern is that we have been gathering a bit of data on our own and done test work on our own on test emissions. We are developing other data that may be useful. The bottom line is we think the EPA is putting the cart before the horse. The EPA is putting out the rule, but we would like to respond and provide comments to the Cohen Risk Assessment report before the rule is published. We would like to review the risk analysis first and provide comments, material and data to the EPA before the rule is published. At that point we think it would flow into the rule making process. Since that report is not available to us, we can't comment and provide data before the rule is published.
- R. Rosnick: We have not had a quick process here at the EPA, and our resources here are limited. Our expert here is now back in the office and in the next couple of weeks we will have that report finalized and published. If you have data and/or information that could be helpful to us in the review, we would be happy to take a look at it. If you have anything that you care to submit, just make it available. If that doesn't happen, once the rule is proposed you can still submit the data at that point, along with your comments on the proposed rule. We actually have to get this rule proposed and out – so we are balancing between getting this done quickly but also gathering as many comments and data as possible.
- T. Stills: Section 114 request gone out?
- O. Paulson: We have tested on our own, while not being requested by anyone to do so.

- T. Stills: Why is that voluntary when a number of other operators have gotten a 114 request requiring them to submit the information? Why wasn't it sought out in the first place, but now that we know there could be more data from them – why isn't anyone asking for it?
- O. Paulson: Because we are not an in-situ leaching facility.
- T. Stills: I would now request that Cotter get a request for their data under the 114 request.
- R. Rosnick: Cotter did receive a Section 114 letter. Regarding Kennecott, the reason we did not send one was because they have been in compliance with submitting radon flux data, and they are currently in standby mode.
- T. Stills: That is fair enough, but it sounds like there could be more information out there that you could request so the regulation could be written based on all the available data.
- S. Cunningham: One of the things we are experiencing is that Cotter is claiming that their impoundments are closed. They state it in different ways at different times, what we are experiencing and observing here could be valuable to the rule making. The problem I am having by not seeing the rule assessment yet, technical issues being reviewed is that we can't compare the proposed rule to what we are seeing here with this newly closed impoundment. We would expect that the regulation does not address some of the issues we are seeing here with this pond closure. It is difficult for a person outside of the industry and Agency to understand how to contribute to the process. Yes, there are some dated documents here available on the website but we are disappointed because we came in with good faith for the settlement but it hasn't met its obligations. Why would the EPA want to handle things this way? I will send you some data on the enclosure, so it can be available to you.
- R. Rosnick: I will tell you that one of the things we have looked at in Subpart W and the work group has addressed is – when does closure start for a facility. We have looked at it and made recommendations.
- S. Cunningham: I am sitting a mile from this facility and there have been no radon tests since 2010. So while everybody is working on this rule making, Rome is burning. I will send you something on this.
- R. Rosnick: Other questions or comments please. Our next conference call is scheduled January 5, 2012 at 11am. I hope to have good news for everyone by then. I will do what I can to get the risk assessment document on the website as quickly as I

can. If you have any questions or comments between now and then, please get in touch.

T. Stills: As far as narrowing down the target date. I know we differ on what “Winter” means, but now that you have a January 2012 date in mind – you should consider posting the proposed date. I appreciate that you don’t have a hard deadline, but if you can narrow it down that would be great.

R. Rosnick: I will post this tentative date on the website. We will be talking again in January. Good bye.