

EPA-3270

Reid Rosnick/DC/USEPA/US

05/21/2010 06:59 AM

To Amanda Evans

cc Tim Benner

bcc

Subject Re: NESHAP Subpart W: Standards for Radon Emissions from Operating Uranium Mill Tailings - New ORD Lead

Hi Mandy,

Yeah, there has been a lull in the action on Subpart W for a number of reasons. The settlement agreement has really tied me up with stakeholder issues. In fact, I'll be in White Mesa, UT on Monday for a stakeholder meeting. Also, in an effort to "slow down" and allow Loren Setlow's 40 CFR 192 effort to catch up a little (since we do have some common areas of interest) I backed off a little. Also, we just received a new contractor (and funds) to perform risk assessments at all the existing uranium mills/ISLs, so that effort is now underway.

I wish you the best in your new endeavors, and Tim, welcome! Please contact me if you have any questions. Thanks.

Reid

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Amanda Evans Hi Reid, I haven't heard too much actio... 05/20/2010 03:39:26 PM

From: Amanda Evans/DC/USEPA/US
To: Reid Rosnick/DC/USEPA/US@EPA
Cc: Tim Benner/DC/USEPA/US@EPA, Ronald Mosley/RTP/USEPA/US@EPA, Thabet Tolaymat/CI/USEPA/US@EPA, David Carson/CI/USEPA/US@EPA, Souhail Al-Abed/CI/USEPA/US@EPA
Date: 05/20/2010 03:39 PM
Subject: NESHAP Subpart W: Standards for Radon Emissions from Operating Uranium Mill Tailings - New ORD Lead

Hi Reid,

I haven't heard too much action on the Subpart W rulemaking of late but wanted to let you know that I'm leaving the Agency after next week. Tim Benner, here in OSP, will be taking my place as the ORD lead on this action, and I'll share with him all of the materials I have. Please include him on all future correspondence and meetings.

Thanks!
Mandy

Amanda Evans
Air Team -- Program Support Staff
Office of Science Policy
U.S. EPA Office of Research and Development
(202) 564-2208

EPA-3269

Amanda Evans/DC/USEPA/US

To Tim Benner

cc

05/26/2010 04:56 PM

bcc

Subject Fw: Availability of Subpart W Website

----- Forwarded by Amanda Evans/DC/USEPA/US on 05/26/2010 04:56 PM -----

From: Reid Rosnick/DC/USEPA/US
To: Sharyn Cunningham <Sharyn@bresnan.net>, "Sweeney,Katie" <KSweeney@nma.org>, Jonathan Block <jblock@nmelc.org>, sanderson@powderriverbasin.org, pamelav@vcn.com, mhollenbeck@powertechuranium.com, randy@diamondbcommunications.com, bobtamen@frontiernet.com, wmap@isc.org, jerifry@socolo.net, khawlee@aol.com, dchambers@csp2.org, walter.nelson@cameco.com, mgarrington@environmentcolorado.com, wiltop@live.com, leona.morgan@yahoo.com, eaglesswilliam@yahoo.com, starbelly_233@yahoo.com, roag505@gmail.com, murray.emily57@yahoo.com, Travis E. Stills <stills@frontier.net>, r.commando@hotmail.com, mneumann@neutronenergyinc.com, sarah@uraniumwatch.org
Cc: Jonathan Edwards/DC/USEPA/US@EPA, Alan Perrin/DC/USEPA/US@EPA, Tom Peake/DC/USEPA/US@EPA, Amanda Evans/DC/USEPA/US@EPA, Angelique Diaz/R8/USEPA/US@EPA, CharlesA Hooper/R7/USEPA/US@EPA, Charlie Garlow/DC/USEPA/US@EPA, Davis Zhen/R10/USEPA/US@EPA, George Brozowski/R6/USEPA/US@EPA, Lena Ferris/DC/USEPA/US@EPA, Loren Setlow/DC/USEPA/US@EPA, Marilyn Ginsberg/DC/USEPA/US@EPA, Robert Dye/R7/USEPA/US@EPA, Scott Whitmore/R8/USEPA/US@EPA, Stephen Hoffman/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA
Date: 11/24/2009 11:33 AM
Subject: Availability of Subpart W Website

EPA is pleased to announce the availability of the EPA website devoted specifically to the rulemaking activities of NESHAP Subpart W. At this website you will find information on upcoming stakeholder conference calls, resource documents, contact information, and more. The link to the website is:

<http://www.epa.gov/radiation/neshaps/subpartw/rulemaking-activity.html>

Please bookmark this address for your convenience.

As the workgroup on Subpart W develops its tentative rulemaking, we will provide up-to-date information on this website. As such, there will be additions on a regular basis.

EPA invites and encourages stakeholders to provide comments on our review of Subpart W.

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EPA-3393

Charlie Garlow/DC/USEPA/US

To Reid Rosnick

06/22/2010 01:06 PM

cc

bcc

Subject Re: Fw: Freedom of Information Act Request

Thanks so much. You made my day !
I am awaiting the go order from others in Region 8.

Charlie Garlow, Attorney-Advisor
US Environmental Protection Agency
Air Enforcement Division
202-564-1088 phone
202-564-0068 fax
1200 Pennsylvania Ave, NW, MC 2242A
Washington, DC 20460 mail or 20004 courier

"Life's most urgent question is what are you doing to help others?" - - Martin Luther King, Jr.
"Through the centuries, men [and women - ed.] of law have been persistently concerned with the resolution of disputes in ways that enable society to achieve its goals with a minimum of force and maximum of reason." - - Archibald Cox

Reid Rosnick

Hi Charlie, FYI below, we have receive...

06/21/2010 02:06:50 PM

From: Reid Rosnick/DC/USEPA/US
To: Charlie Garlow/DC/USEPA/US@EPA
Date: 06/21/2010 02:06 PM
Subject: Fw: Freedom of Information Act Request

Hi Charlie,

FYI below, we have received a FOIA request from the Subpart W Plaintiffs. I know that you and I traded e-mails during the time leading up to the issuance of the 114 letters, and I believe I have all of those e-mails. I just wanted to give you a heads-up in case you have anything that meets the scope of the request. I'm assuming not, but I'll let you make that call. Thanks

Reid

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----- Forwarded by Reid Rosnick/DC/USEPA/US on 06/21/2010 02:03 PM -----

From: Travis Stills <stills@frontier.net>
To: Reid Rosnick/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA
Date: 06/18/2010 02:41 PM
Subject: Freedom of Information Act Request

Dear Mr. Rosnick,

Please find attached a Freedom of Information Act request which is submitted on behalf of Colorado Citizens Against ToxicWaste.

Please confirm, via email, that you are in receipt of this email and are able to open the pdf attachment.

Sincerely,
Travis Stills
Attorney for CCAT

cc: Susan Stahle, EPA General Counsel, EPA Headquarters (stahle.susan@epa.gov)

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~~~~~  
Travis E. Stills  
Managing Attorney  
Energy Minerals Law Center  
1911 Main Avenue, Suite 238  
Durango, Colorado 81301  
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~~~~~  
[attachment "EPA Headquarters Rulemaking FOIA Request June 18 2010.pdf" deleted by Charlie Garlow/DC/USEPA/US]

EPA-5069

Angelique Diaz/R8/USEPA/US

06/22/2010 02:46 PM

To Loren Setlow

cc Tom Peake, Loren Setlow, Deborah Lebow-Aal, Reid
Rosnick

bcc

Subject Fw: Radon ISL Evap Pond Data

Loren, please see the e-mail below and let us know which data you are concerned about regarding public exposure from ISL evaporation ponds. I would like to be sure to include any concerns in the document I am working on summarizing the data collected in Wyoming and Nebraska. I'd like to complete this document by **COB, Monday 6/28** so the sooner the better.

Thank you,
Angelique

Angelique D. Diaz, Ph.D.
Environmental Engineer
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----- Forwarded by Angelique Diaz/R8/USEPA/US on 06/22/2010 12:45 PM -----

From: Angelique Diaz/R8/USEPA/US
To: Loren Setlow/DC/USEPA/US@EPA
Cc: Reid Rosnick/DC/USEPA/US@EPA, Robert Duraski/R8/USEPA/US@EPA
Date: 06/11/2010 10:04 AM
Subject: Radon ISL Evap Pond Data

Loren,

I did not get the chance to speak with you about this while you were in Denver for the U Recovery Workshop, but Bob and I are curious as to what radon/radon daughter data you are concerned about. This is in reference to the discussion around you notifying NRC of occupational exposure concerns as a result of the ISL evaporation pond data collected for the Subpart W rule review.

Region 8 has taken the lead in reviewing the data and Bob and I have not seen anything that would make us concerned about occupational exposure. I want to make sure we aren't missing something, that we are all on the same page, and that we are in communication regarding the data Region 8 is analyzing. Please let us know the numbers to which you were referring and if you have questions we would be more than happy to address them. If there are concerns I would like to include them in my report.

Thank you,
Angelique

Angelique D. Diaz, Ph.D.
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EPA-3323

Reid Rosnick/DC/USEPA/US

06/24/2010 09:24 AM

To Beth Miller

cc

bcc

Subject Additions



Webinar Presentation.ppt

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EPA'S NESHAP Subpart W Activities An Internet Webinar

**Reid J. Rosnick
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Ask Questions

- If you have a question during this presentation, please send it to:
- SubpartW@epa.gov
- After the presentation, we'll try to answer as many questions as possible, time permitting



Overview

- What is NESHAP?
- EPA regulatory requirements for operating uranium mill tailings (Subpart W)
- General requirements applicable to Subpart W
- Information on review of UMTRCA standards
- EPA's rulemaking process
- Status update on Subpart W activities
- Communications
- Some conclusions



What is NESHAP?

- **National Emission Standards for Hazardous Air Pollutants**
- Mandated by the Clean Air Act
- Standards set by EPA for air pollutants to protect human health and the environment
- Radionuclides are in this category (Rad-NESHAP)
- Various sources regulated under Rad-NESHAP, including radon emissions from operation uranium mill tailings (NESHAP Subpart W)



EPA Regulatory Requirements for Operating Uranium Mill Tailings (Subpart W)



EPA Regulatory Requirements for Operating Uranium Mill Tailings (Clean Air Act)

- 40 CFR 61 Subpart W requirements apply to facilities licensed to manage uranium byproduct materials during and following the processing of uranium ores
 - Preconstruction approval, 40 CFR 61.07
 - Impoundment construction and operation requirements in 40 CFR 192 cross referenced in Subpart W
 - Limit on number/size of impoundments
 - Phased Disposal – lined impoundments no more than 40 acres, no more than two in operation at any time
 - Continuous Disposal – tailings are dewatered and immediately disposed, no more than 10 acres uncovered at any time



EPA Regulatory Requirements for Uranium Operations (Clean Air Act)

Subpart W Requirements (continued)

- Radon emission standard of 20 pCi/m²/sec -- annual reporting requirements, notification in advance of testing
- The radon emission standard is for existing sources only (existing before 12/15/89)
- All operators must comply with 40 CFR 192.32(a)
See
<http://www.epa.gov/radiation/neshaps/subpartw/rule-making-activity.html> for more information



General Requirements Applicable to Subpart W

- Subpart W facilities are subject to the general requirements of 40 CFR 61.01 - .19
 - Application for construction and modification
 - Notification of startup
 - Compliance with monitoring/maintenance requirements
- Subpart W facilities are subject to the design and ground-water requirements of 40 CFR 192.32(a)
 - Ground-water protection standards and impoundment design requirements similar to hazardous waste facilities
 - Permanent radon barrier at closure



Review of 40 CFR 192 Regulations Implementing UMTRCA

- EPA reviewing regulations implementing the Uranium Mill Tailings Radiation Control Act (UMTRCA)
- Establishes health/environmental protection standards utilized by NRC and Agreement States, and DOE for their oversight of uranium extraction facility licensing, operations, sites, and wastes
- Includes conventional uranium mills, ISL recovery facilities, heap leach facilities, but not conventional mines (open pit or underground)

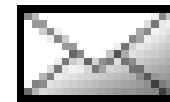


Review of 40 CFR 192 Regulations Implementing UMTRCA

▪ **Internet site:**

- Members of the public interested in this issue should visit <http://www.epa.gov/radiation/tenorm/>

and sign up to receive notification of changes to the page at the envelope icon: Get e-mail updates when this information changes.)



EPA's Rulemaking Process

- Tiering
 - The lead office submits a request for a new action; the Regulatory Steering Committee (RSC) reviews it; the Regulatory Policy Officer (RPO) approves; the Office of Policy, Economics, and Innovation (OPEI) approves the tier
 - Tier 1: Top actions that demand the ongoing involvement of the Administrator – precedent setting and controversial
 - Tier 2: Include significant science, policy, economic and/or implementation issues – decision may be based on a risk assessment - Subpart W review is Tier 2
 - Tier 3: Generally involves use of well-known and accepted science principles



EPA's Rulemaking Process

- Analytic Blueprint and Early Guidance
 - The workgroup creates a Preliminary Analytic Blueprint (ABP), management gives Early Guidance, and the workgroup creates a Detailed ABP
- Analysis and Consultation
 - The workgroup gathers scientific, economic, legal, stakeholder, enforcement, and compliance information. Also, the workgroup drafts regulatory options
- Options Selection
 - Senior management selects options or narrows the list to a select few that require further research



EPA's Rulemaking Process

Drafting

- The workgroup creates a draft of the action

Final Agency Review

- This is the last point for EPA review. Senior management from participating offices concur or non-concur with the action as it is written

Office of Management and Budget (OMB) Review

- If the action is significant, OPEI submits it to OMB for review

Signature

- The EPA Administrator, an Assistant/Associate or Regional Administrator, or a delegate signs the action



EPA's Rulemaking Process

Docketing

- The lead office ensures that the action and appropriate supporting documents are deposited in the official docket

Federal Register Publishing

- The action is published in the Federal Register

Public Comments

- The action is open for a formal comment period, during which the public may submit comments and request public hearings



EPA's Rulemaking Process

Final Action

- After the proposed action's public comment period closes, the workgroup reviews all comments and usually starts preparing a final rule
- The process begins again, usually with a new Analytic Blueprint
- Final actions are often subject to the Congressional Review Act and Courtesy Copy Policy



Status Update on Subpart W Activities



Status of Subpart W Review Activities

- Per Clean Air Act Amendments of 1990, EPA is obligated to review Subpart W
- A workgroup has been established
 - Members from across the Agency
 - Represent ORIA, OGC, ORD, OSWER, OECA, OPEI, OW, Regions 6, 7, 8 and 10
 - Workplan, Communications Plan, Analytic Blueprint have been completed, basically, how are we going to approach the task



Status of Subpart W Review Activities

- We have conducted historical research on the risk assessment work originally done in support of the 1989 standard
- We have completed a survey of existing technologies
- Office of Enforcement and Compliance Assurance sent information request letters to numerous uranium recovery facilities
- Answers better inform the workgroup of the universe of facilities, and the types of uranium recovery processes that exist
- We have also requested that ISL facilities provide radon flux data from their evaporation ponds



Status of Subpart W Review Activities

- We are researching if Method 115 continues to be current, or whether other methods could be employed for monitoring and analysis of radon flux
- We are beginning the process of performing risk assessments at all existing facilities
- Purpose is to update risk numbers used in 1989 rulemaking to reflect state of the science
- Stylized scenarios will also be developed for representative future sites
- Scenarios would include varied climate, heap leach



Status of Subpart W Review Activities

- 1989 rule used AIRDOS to calculate dose and risk
- Determination which model is appropriate
- Candidate models include CAP88, GENII, RESRAD, MILDOS-AREA, MEPAS, GASPAR
- We welcome any other candidates you may know about



Status of Subpart W Review Activities

- Risk estimates will be developed for each Subpart W facility
- Estimates will be presented on a facility-by-facility basis, the same format used in the 1989 rulemaking
 - Source category, radionuclides released, existing controls
 - Bases for the risk estimate
 - Results of the dose and risk calculations
 - Description of supplementary emissions controls and cost effectiveness in reducing dose and risk



COMMUNICATIONS



Communications

- We have developed a website dedicated to Subpart W which provides internet access to background information already compiled by EPA
- Provides public access to all non-privileged records, especially technical documents, as well as useful links to sites relevant to Subpart W
- <http://www.epa.gov/radiation/neshaps/subpartw/rule-making-activity.html>



Communications

- We are conducting quarterly conference calls to brief the public on the review of Subpart W
- Next Call is scheduled for Tuesday, July 6, 2010 at 11:00 AM EDT
- Phone-in number – 1-866-299-3188
- Conference Code 2023439563



Some Conclusions

- We are in the process of reviewing and possibly revising Subpart W, decision in winter 2011
- Owners/operators of ISL facilities that utilize evaporation ponds containing byproduct material produced by the extraction or concentration of uranium should assume you are subject to the requirements of Subpart W
- We appreciate the assistance of all stakeholders to inform and enable us to craft a protective and enforceable rule.



Questions?

