

Subpart W Stakeholders Conference Call October 2, 2014

ATTENDEES

EPA: Reid Rosnick, Tom Peake, Dan Schultheisz, Jed Harrison (ORIA), Susan Stahle (OGC), Angelique Diaz (Region 8)

Environmental Groups/Tribes: Sarah Fields, Uranium Watch; Aaron Mintzes, Earthworks; Jennifer Thurston, INFORM; Janet Johnson; Andy Bessler, NTAA; Randy Ashley, Confederated Salish and Kootenai Tribes; Twa-le Abrahamson-Swan, Spokane Tribe; John Plummer, Navajo Nation; Scott Clow, Tomoe Natori, Mike King, Ute Mountain Ute Tribe

UPDATE

Reid began the call with a welcome and by taking attendance. Reid had a couple of items to share.

Since our last call, the comment period for the proposed rule was extended to October 29, 2014. The proposal stated that the comment period would be 90 days, and end on July 31, 2014. We received a number of requests from stakeholders to extend the comment period, anywhere from 60-120 days. We also held two days of public hearings in Denver, on September 3 and 4. The hearings had good attendance, and there were many excellent comments. Our thanks to the staff in Region 8 in Denver, who were very helpful in making sure the hearings went without a hitch. We have been reviewing the draft transcripts, and we will post them on the website and in the docket as soon as they have been finalized. I just looked at our docket to see if comments have begun to come in, and we currently have 7 comments. FYI, our docket number is EPA-HQ-OAR-2008-0218. Please make sure you post comments by October 29th.

Additionally, the Ute Mountain Ute tribe requested a consultation with EPA on the proposed rule, as well as several issues related to the White Mesa mill. As many of you know, consultation is a formal, government to government process of meaningful communication and coordination between EPA and tribal officials prior to EPA taking actions or implementing decisions that may affect tribes. We take the consultation process with our tribal partners very seriously. Our consultation took place on July 10. We had positive and meaningful discussions with the Tribe, and the Tribe has requested a second consultation meeting with us. We are now in the process of scheduling a time and place for the consultation.

DISCUSSION

Angelique Diaz – One point of clarification on the Consultation is that site specific issues were not discussed. The discussion was only on the Subpart W rulemaking.

Sarah Fields – EPA needs to justify elimination of the radon flux requirement. At White Mesa, cell 3 is not closing. Neither Shooting Canyon nor Sweetwater have a double liner.

Aaron Mintzes – Can you give us an update on the UMTRCA rule at 40 CFR 192?

Tom Peake- The 192 rule has cleared OMB. We are now getting the materials together for the Administrator's signature and then publication in the Federal Register. Optimistically we could have the proposed rule published by the end of October. When it happens we will post all of the regulatory information on our website. The proposed rule focuses on ground-water protection at in-situ leach (ISL), a.k.a. in-situ recovery (ISR) uranium recovery facilities.

Sarah Fields – EPA's website dedicated to the 192 rule is not very informative, and there is little information to be found there.

Tom Peake - We will post historical information related to the 192 rule on its own page. (**Note:** Since the phone call EPA has posted information on www.epa.gov/radiation/laws/192.html.)

Jennifer Thurston – We have no idea what you are planning with 192. This is an important rule, and don't plan on a 90 day comment period, we have no background information of any kind on your website. CCAT may disagree, but the Subpart W website has a lot of information.

Susan Stahle – This is an interesting discussion, but it is not relevant to the Subpart W rulemaking, the subject of this call.

Aaron Mintzes – These two rules are interconnected, and my concern is that the 192 rule will be published just as the comment period for the Subpart W rule is closing.

Scott Clow – First, many thanks to the NTAA for all of their work in distributing information on this and other rules, and for their work on extending the comment period for Subpart W. Is EPA considering engaging their consultants regarding radon emissions from non-conventional impoundments?

Reid – We certainly hope to do that. Right now it's really a question of whether we have the resources to hire the contractor back to do the work.

Scott Clow – We definitely see implementation/enforcement issues at the White Mesa mill. The company is doing the bare minimum to stay under the 20 pCi/m²/sec flux standard at cells two and three. Spread a little soil here and there over "hot spots" in the tailings. We also have issues with the implementation of the Method 115 test for determining radon flux. It is not being used correctly at White Mesa.

Reid – As you note, some of these issues are enforcement related. Regarding your Method 115 issues, we acknowledged in the preamble to the proposed rule that this test methods might be outdated, and we asked for comments on other possibilities for measuring radon flux. We have also received comments on radon flux that are varied. Some commenters have said that tailings merely need to be saturated to effectively limit flux, while other commenters have stated that there is a considerable radon flux rate at tailings with considerable cover. These are the issues we need to evaluate after the comment period closes. We have also received many comments on the definition of closure, and we'll be taking a close look at this.

Scott Clow – Is EPA planning any type of public presentations that explain the final rule? If so, the Tribe would be happy to host a presentation. We found it troubling that the only public hearing was held in Denver, home base of the uranium industry. It was not convenient for people living in White Mesa.

Tom and Reid – This is something that we definitely consider. It may be a question of travel resources. There are other possibilities we could consider, such as a webinar.

Sarah Fields – I agree with Scott. Thank you for posting all of your emails on the Subpart W website. I feel you have no enforcement mechanisms within Subpart W. EPA doesn't count non-conventional impoundments in the proposed rule. The real reason is that White Mesa continues to violate the two operational impoundment standard. There is no history of implementation of the regulation. EPA says that measuring radon at non-conventional ponds is unnecessary.

Next call: Thursday, January 8, 2015 at 11 AM Eastern Time.

end