

## **Subpart W Quarterly Conference Call**

January 5, 2012, 11:00 am – 12:00 pm  
1310 L Street NW, Room 502, Washington, DC

### **[DRAFT] Conference Call Notes**

#### **Meeting Participants:**

EPA HQ: Reid Rosnick, Phil Egidi, Dan Schultheisz, Emily Atkinson, Sue Stahle  
EPA Regions: Angelique Diaz, Region 8  
CCAT: Sharyn Cunningham  
Sheep Mountain Alliance: Jennifer Thurston  
Industry: Oscar Paulson (Kennecott), Jeff Kelsey (UR Energy), Rita Myer (U235),  
Joanne Tischler (Denison), John Schwenk(?) (Cameco), John Cash (UR  
Energy), Mike Newman (Neutron Energy), Jan Johnson (TetraTech)  
Other: Travis Stills (Energy Minerals Law Center), Katie Sweeney (National  
Mining Association)

R. Rosnick: Happy new year to everyone. This is our regularly scheduled quarterly stakeholder conference call.

I can give you a brief update with regard to the proposed rule. We are at the end of the work group process; we have had some back and forth on language changes and ideas into the preamble and wording of the proposed regulatory language. We have had interesting discussions on these things as well as legal issues in the preamble to the proposed rule.

On Tuesday we are briefing our Assistant Administrator Gina McCarthy on the status of the rule and requesting the go ahead for the Final Agency Review (FAR) (Note that this meeting was postponed until a later date yet to be determined). All the workgroup representatives and their higher level management would give the go ahead and say they have no major issues and that they feel we have a legally defensible proposed rule. After that meeting we wrap the package of the preamble, rule and other documents with the rule and it is sent to the EPA Office of Policy and it then goes to OMB for no more than 90 days for review. When it comes back from OMB we would make any changes they recommend or explain why not and then it goes to the EPA Administrator for signature and publishing in the Federal Register. The tentative release to the Federal Register would be April/May 2012.

Does anyone have any questions about the process or timeline?

- T. Stills: I guess it's a year and a half later than the dates in the settlement. We are not seeing any technical documentation, as we had expected to. It is my quarterly request to bring up that you need to engage more in publishing the technical information and engage the public. Is there a plan to publish more technical information in the next week or so?
- R. Rosnick: After your request during the last call, your request for the risk assessment document, it was posted several days later.
- T. Stills: From what I see posted on the website, EPA hasn't posted enough information.
- R. Rosnick: I assume you are looking for other types of technical documents. We have several different types of technical documents up on the website and we feel what is posted is sufficient technical materials.
- T. Stills: What I am talking about is the public would have access to technical information, not just the industry officials. We would like to see the documents the EPA is using for the rulemaking to be posted to the website during this process for our review. We would like more information and it is what was envisioned during the settlement. It is a repeated request to have more technical information posted for review. This is a request also to the Office of General Counsel because RPD is not doing what we expected it would do.
- R. Rosnick: I feel we have met the standard as agreed upon in our settlement.
- K. Sweeney: Can you be more specific about what you have requested from EPA?
- T. Stills: Anything technical in nature that is not privileged that the workgroup has worked with to write the preamble and rule.
- S. Stahle: I would be happy to have a conversation about the settlement agreement at a separate time with our DOJ counsel. The website does contain all of the documents that are appropriate for posting. As I know you appreciate, under the terms of the settlement agreement, we cannot post documents that do not exist and we will not post documents that are deliberative or privileged in any way. Once the rule is proposed, we will include in the public docket all of the information we relied upon for this rulemaking so that the public can review and comment on all of this information at that time. I appreciate that we have a difference of opinion about the settlement agreement, but let's schedule another time for a conversation regarding the settlement agreement so that we can include our DOJ counsel and so that others on this call can ask their questions about the Subpart W rulemaking.
- T. Stills: It doesn't seem credible that only 2 documents were releasable in 2011. It seems unacceptable that there are so few releasable documents.

- R. Rosnick: Any other question about general rulemaking?
- O. Paulson: I have reviewed the risk assessment distributed in November. It talks about a number of sites. How were certain things done in the risk assessments related to Sweetwater? Population data – table 4 – you go from 0 to 8 km on the site. These population numbers, because I know for a fact the nearest town in NE of here Bairoil with only 10 people and is not within the 30 mile distance. Also listed at NNE are 3 people living within 3 km. I am around here a lot and there are no people that close. It seems to show people that aren't here.
- R. Rosnick: I believe in the document itself, there is a description of how we went through the census data from 2000 and it was increased by using a model to increase it. This allowed us to get what we thought was a realistic idea of the population within 80 km. We did not go out and drive around to get data.
- O. Paulson: My second question is in table 8 – radon flux test results. We have submitted more recent 2011 results and the information in the report is from NRC data that is much older.
- R. Rosnick: I will look into this and post the results to the website. COMPLETED
- O. Paulson: I may be able to look at the Adams database to see if the data from the NRC is what was used from our submission to them. If I find something there I will send you a link to it.
- M. Newman: What is the deadline for getting a response on the risk assessment?
- R. Rosnick: It is a public document out there. I am happy to take comments on it through the proposed rule timeline, so that gives you several months.
- K. Sweeney: How long will the comment period be?
- R. Rosnick: Historically we provide 60 days.
- K. Sweeney: This is a rule where we may need 90 days.
- R. Rosnick: That is a good proposal and a longer comment period may be preferable for everyone involved. That is noted and Sue is on the line, so we can discuss this with our AA on Tuesday.
- S. Cunningham: I would like to say I have the same concern Oscar has about the population chart. I think that population number is low there. 0-20 miles would include Canyon City with a population of 20,000 people.

Also, why didn't they use the 2010 census data, because that data is out now. Our community grew a lot in the 10 years.

R. Rosnick: At the time we started this process, the 2010 census data had not been published yet. So we used the 2000 census data and then model it with a program to help establish the population numbers.

S. Cunningham: Population is such an important part of the risk assessment; I would have thought EPA would have used the most recent 2010 census data.

R. Rosnick: I will look into this and post my findings on the website.

It was desired to use 2010 population data rather than the 2000 census data available in SECPOP, but the analysis was performed before the 2010 data were released. The U.S. Census Bureau has estimates of the population in every county for each year from 2001 through 2009 (<http://www.census.gov/popest/counties/files/CO-EST2009-ALLDATA.csv>). For each uranium site, the 2000 census data and 2009 estimate were used to calculate an annual population adjustment factor specific for the county in which the site is located. That annual adjustment factor was then used to calculate an adjustment factor to bring the SECPOP population distribution from 2000 to 2010.

Johnson: I haven't had a chance to go through the entire report. What was the rationale for the CAP88 and low dose?

R. Rosnick: At the end of the analysis CAP88 was determined to give the most bang for the buck and realistic tracking of radon movement. We were also the most familiar with it.

O. Paulson: We have found some problems with CAP88 and found that MILDOS was vastly superior.

R. Rosnick: I don't have an answer beyond what I said previously. SEE METHODOLOGY FOR CHOOSING RISK ASSESSMENT MODEL DOCUMENT, NOW ON WEBSITE.

S. Cunningham: Are you going to put comments on the website?

R. Rosnick: I suspect what we will do is, since we always post minutes from these meetings I will plan on delaying posting them until I can get responses to these issue there.

S. Cunningham: We have never seen any of the emailed inquiries and responses posted to the website. This is being done for other rulemaking activities. If you have received question or comments, that it be made available to the public so we can see what the comments are. Especially for comments on the risk assessment. I

would prefer to see the minutes go up first and then when you begin to get comments on the risk assessment, put them up on the website as they come in.

R. Rosnick: I meant delaying posting the meeting minutes only to address comments brought up on today's call, so answers to those can be placed in context. Outside of our calls, I have only received two emailed comments. I can get those posted.

Any other questions today?

Feel free to contact me directly should there be anything between now and our next conference call on April 5, 2012 at 11am.

T. Stills: One more thing – Task 5 is the risk assessment. Task 3 report is the methodology for choosing CAP88. We would hope it will be posted. COMPLETED

R. Rosnick: That is it for today. We will talk again April 5, 2012 at 11am.