ATTENDANCE/MINUTES
QUARTERLY CONFERENCE CALL ON SUBPART W
12/3/2009

Reid Rosnick – EPA
Susan Stahle – EPA
Sharyn Cunningham – CCAT
Paul Carestia - CCAT
Travis Stills – Energy Minerals Law Center
Phil Egidi – CDPHE
Sarah Fields – Uranium Watch
Zach Rogers – Energy Fuels Resources Corp.
Scott Bakken – Cameco Resources
Oscar Paulson – Kennecott Mining
John Hamrick, Jim Cain, Randy Whicker – Cotter Corp.
Dan Finch – Trinetech

Minutes and Discussion

Welcome - Roll Call

Recent EPA Activities

a. Website

- Website went live Nov. 24. Contains information on upcoming stakeholder conference calls, resource documents, contact information, and more. Website is located at: www.epa.gov/radiation/neshaps/subpartw/rulemaking-activity.html . The information on the website continues to be a work in progress, and more information will be added as it becomes available, for instance a link to a geographic information database on the location of uranium mines and mills.

b. Accumulation of data from previous rulemaking

- Reid described the contents of the web site, and documents under the headings Current Action, Presentations, Historical Rulemakings, Enforcement and Useful Links. Additionally, there is a legacy docket from the NESHAP rulemakings in the 1980s. Reid is researching where all that information is housed, and will report back. Sarah Fields added that she reviewed legacy docket material in the EPA Air and Radiation Library in Washington, DC. It had been placed on microfiche and was difficult to copy. What

information she did find has been placed on the Uranium Watch website, at www.uraniumwatch.org

c. EPA response to request for additional meeting near Gallup/Grants in conjunction with White Mesa meeting in Blanding

- EPA management is not planning on an additional meeting in the Grants/Gallup area at this time. The Agency believes that through the use of the Subpart W website, the planned nationwide webinar scheduled for early 2010, and the opportunities for discussions during the quarterly conference calls, EPA can meet the needs of the stakeholders in the Grants/Gallup area. Further, EPA participated (and sponsored) an annual workshop in Gallup in early November for the Navajo. Travis Stills commented that EPA should expect a letter requesting an additional meeting.

d. Correspondence between EPA and industry regarding information requests?

- As can be seen on the website, EPA requested information from several uranium recovery facilities, conventional mills as well as ISL facilities. The responses to EPA's request for information are also found on the web site, and in most cases they are extensive. Further, EPA requested radon flux data from evaporation ponds at ISL facilities. The data was collected over the summer months when evaporation had the potential to give the best possibility for radon detection. The data has been collected and is currently being analyzed by EPA. It is assumed that the results will be posted on the website by the next conference call.

Technical Issues

a. Describe EPA review teams by subject matter

- The EPA workgroup on Subpart W is comprised of 15 relevant scientists and engineers from EPA Headquarters and Regional offices, as well as representatives from OGC, OECA, and the Office of Policy, Economics and Innovation. Their functions include assuring the appropriate options are considered, and that actions are based on sound scientific, economic, policy and legal analysis. Specifically, in addition to OGC OECA and OPEI, the workgroup contains members from ORIA, OSWER, OW, Superfund program, Office of Research and Development, and Regions 6, 7, 8 and 10. In addition to performing analyses of information received, they contribute to developing and writing the action at hand. While it is the responsibility of ORIA to produce the proposed action, the workgroup share in that responsibility by participating actively in discussions and reviews, by providing meaningful comments, and by contributing relevant data and analysis. We also have the support of a contractor, who provides information to the workgroup by performing studies like those found on the website, for example the history of NESHAPS and Subpart W, the review of tailings impoundment technologies, and the review of Method 115. Documents like these are then reviewed by the workgroup and questions or comments are submitted before the product is accepted by the workgroup.

b. Review issues raised by public or industry to date

For time reasons, this was not an all-inclusive list:

- Is 20 pCi/m^2/sec still a protective number?
- Is it correct to assume that there is zero radon flux from ISL evaporation ponds?
- Is there a need for regulatory guidance after the rule is published?
- Analytical reports should be submitted on a more timely basis
- Need to measure radon progeny
- Evaporation ponds at ISL facilities were never intended in the original Subpart W rule to be regulated
- Areas of tailings piles with elevated radon flux should not be averaged with areas of low flux

c. 1989 Risk Assessment - status of current historical research

- We are still reviewing the documents that have been posted on the web site. Since they total over 1000 pages, it has taken time to review. We also have asked our contractor to perform a review of this information and report to us.

d. Existing Technologies - status of current survey

- This review was performed by our contractor, and is essentially complete. The document is on the website. Travis Stills asked that the contactor administrative record and conflict of interest information that was submitted to EPA be placed on the website. Reid stated that he would research this issue.

e. Method 115 - status of current research

- This review was performed by our contractor, and is essentially complete. The document is on the website. However, we have heard anecdotal evidence that Method 115 is old, outdated, and difficult to have analyzed. It is currently our intention to request comment on this method when we issue the proposal. There was a discussion on the availability of the testing method and analysis for the uranium recovery sector as opposed to the phosphoric acid sector. While the phosphoric acid sector in central Florida has difficulties finding support for fabrication and analysis, the uranium recovery sector has no such problem. It was further discussed that a viable alternative could be the placement of Landauer RadTrak detectors. It was estimated by Oscar Paulson that implementing this alternative would increase costs by 50-100%.

f. **Status of Part 192 review as it applies to Subpart W regulations (This issue was not discussed during the call due to time constraints. It is included here for completeness.)**

- 40 CFR 192 is the regulation promulgated under the Uranium Mill Tailings Radiation Control Act of 1978, known as UMTRCA. Subpart D of the standards is for management

of uranium byproduct materials. Subpart W references this Subpart for the design, construction and monitoring of tailings impoundments for operation uranium recovery facilities. In addition to the design standards the two regulations share the same radon flux level, 20 $pCi/m^2/sec$.

ORIA is reviewing, and possibly revising the 192 standards. Some of the reasons include:

- significant changes have occurred in the regulated industry and technologies being regulated, as well as groundwater protection standards used by EPA applicable to these facilities;
- historical data has been developed on the effectiveness and ineffectiveness of the existing standards, their implementation by the NRC, DOE and Agreement States, pollution events and degradation of groundwater resources which have occurred under this regulatory framework, as well as court decisions which affect how the standards are written;
- assumptions used to develop the original dose and risk assessments for the rule may no longer be valid given changes in extraction technologies and influence of individual exposure pathways, post closure land use, updated risk factors for modeling, and likely receptors of the environmental exposures;

We are coordinating the reviews of Part 192 and Subpart W. We share many of the same workgroup members, and obviously the results of the 192 analysis can impact the review of Subpart W. We are attempting to have the reviews run on a parallel track in order to maintain consistency.

EPA Activity before next call

EPA will continue reviewing the risk assessment documents; research the legacy docket issue, the posting of contractor information, and alternatives to Method 115.

Next call date and time

Tuesday, January 5, 2010 at 11 AM EST
Call-in number: 866-299-3188
Conference code: 2023439563