



# ***U.S. EPA Regulations Review Update: Subpart W NESHAPS (40 CFR 61)***

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***National Tribal Air Association  
NTAA-EPA Air Policy Call  
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# Review of 40 CFR 61 Subpart W

- National Emission Standard for Hazardous Air Pollutants (NESHAP) for radon emissions for operating mill tailings
- Review began after receiving Notice of Intent to Sue (NOI) by two Colorado environmental groups
  - ✓ Based on EPA's alleged failure to review & revise regulation within ten years after enactment of Clean Air Act Amendments of 1990 (11/15/2000)
  - ✓ Plaintiffs filed suit against EPA
  - ✓ Settlement agreement reached November 2009



# Existing Subpart W Summary

- Applies to radon emissions from operating uranium mill tailings
  - Radon emissions flux standard: 20 pCi/m<sup>2</sup>/sec
- After 12/15/1989, new impoundments were required to meet one of two new work practices:
  - ✓ Phased disposal – Impoundment size(2)  $\leq$  40 acres
  - ✓ Continuous disposal – dewatered tailings with no more than 10 acres uncovered
  - ✓ Both must meet design, construction, ground-water monitoring standards at 40 CFR 192.32(a)
- Work practices were designed to achieve at least equivalent risk reductions as obtained by the numerical standard



# Existing Subpart W, continued

- Regulation originally written with emphasis on conventional impoundments
- In Situ Leach/Recovery (ISL/ISR) extraction has become more commonplace since original promulgation
  - ✓ Does not generate significant tailings
  - ✓ Wastes containing uranium byproduct material are placed in evaporation ponds/impoundments
- ISL/ISR, conventional mill, heap leach operations expected



# Proposed Subpart W Revisions

- EPA is proposing several revisions (under authority of the Clean Air Act Amendments of 1990):
  - ✓ Clearly stating that the standards apply to all units that contain uranium byproduct material. These units include, but are not limited to:
    - conventional tailings impoundments
    - evaporation ponds or other nonconventional impoundments at uranium recovery facilities
    - heap leach piles



# Proposed Subpart W Revisions, cont.

- Propose that all uranium recovery facilities comply with Generally Available Control Technology (GACT), or management practices
  - ✓ Management practices incorporate existing “work practices” for conventional impoundments
  - ✓ Management practices also specified for evaporation ponds and heap leach piles
  - ✓ This standard requires double liners and leak detection systems per 40 CFR 192.32(a)



# Proposed Subpart W Revisions, cont.

- Proposed GACT removes the requirement for monitoring radon, but still limits the amount of byproduct material that can be exposed
  - ✓ For conventional impoundments, limit tailings exposure using either phased disposal or continuous disposal
  - ✓ For heap leach piles, limit tailings exposure using phased disposal and maintain a 30 % moisture content in the pile
  - ✓ For evaporation ponds, require at least one meter of liquid be constantly maintained in the pond



# Proposed Subpart W Revisions, cont.

- Add definitions for:
  - ✓ uranium recovery facility
  - ✓ operation and standby
  - ✓ Conventional impoundment
  - ✓ non-conventional impoundment
  - ✓ heap leach pile
- Require the owner/operator of a uranium recovery facility to maintain records that confirm that impoundments have been constructed according to the requirements





# Outreach

- Presentations made in Gallup, NM, Rapid City, SD, Denver, CO, Ute Mountain Ute Recreation Center (White Mesa)
- Dedicated website:  
([www.epa.gov/radiation/neshaps/subpartw/rule-making-activity.html](http://www.epa.gov/radiation/neshaps/subpartw/rule-making-activity.html))
- Quarterly stakeholder conference calls (July 3, 866-299-3188, code 2023439563#)
- Letters requesting consultation sent to 55 tribes
- Consultation requested by Ute Mountain Ute



# Comments/Public Hearing

- The proposed rule was published in the *Federal Register* on May 2, 2014 (79 FR 25388)
- EPA will accept comment until July 31, 2014 (90 days after the proposed rule was published)
- EPA has received requests to extend comment period. Extension will be granted - time has not been decided
- Public hearing will be held during the comment period

