

July 30, 2007

Mr. Juan Reyes, Director  
Radiation Protection Division  
Mailcode 6608J  
1200 Pennsylvania Ave, NW  
Washington D.C. 20460

Dear Mr. Reyes:

SUBJECT: EPA REPRESENTATION ON NRC WORKING GROUP FOR ISL RULE

We request your assistance in identifying an individual from your organization to serve on a rulemaking working group to develop a proposed rule on groundwater protection at *in situ* leach (ISL) uranium recovery facilities. In addition, if the U.S. Environmental Protection Agency believes it would be useful in supporting this working groups activities, we would be amenable to adding another working group member from your Office of Water.

The ISL working group was originally initiated in 2006 and currently has a member from Texas representing the Organization of Agreement States, Inc. Because of recent changes in scope for the rulemaking, we are taking this opportunity to expand the working group to ensure adequate representation of other government stakeholder views.

Enclosed is additional information regarding this request.

We request that you identify a working group member from your organization and/or a working group member from your Office of Water within 20 days of the date of this letter. Please notify Gary Comfort of my staff of your selection at (301) 415-8106 or gcc1@nrc.gov.

Thank you in advance for your assistance.

Sincerely,

**/RA/**

Dennis K. Rathbun, Director  
Division of Intergovernmental Liaison  
and Rulemaking  
Office of Federal and State Materials and  
Environmental Management Programs

Enclosure:  
Additional Information Regarding  
Request for Working Group Participation

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**REQUEST FOR WORKING GROUP PARTICIPATION**  
**RULEMAKING ON GROUNDWATER PROTECTION AT**  
***IN SITU* LEACH URANIUM RECOVERY FACILITIES**

**Purpose**

Rulemaking Branch A, of NRC's Office of Federal and State Materials and Environmental Management Programs, (FSME) Division of Intergovernmental Liaison and Rulemaking (DILR), is looking for an individual to serve on a rulemaking working group to develop a rule on groundwater protection at *in situ* leach (ISL) uranium recovery facilities.

**Background**

In the Staff Requirements Memorandum dated March 24, 2006, in response to COMJSM-06-0001, "Regulation of Groundwater Protection at in Situ Leach Uranium Extraction Facilities," the Commission directed the staff to initiate a rulemaking effort specifically tailored to groundwater protection programs at ISL uranium recovery facilities. The rulemaking should also focus on eliminating dual regulation by the NRC and the U.S. Environmental Protection Agency (EPA) of groundwater protection.

The staff originally assembled a working group in June 2006 with members as listed below in "Planned Membership." Although the working group began developing rule language, EPA voiced significant concerns regarding NRC's proposed approach and so the rulemaking was delayed. From August 2006 through March 2007, NRC and EPA staff met periodically to resolve EPA's concerns. Subsequently in April 2007, NRC staff notified the Commission regarding EPA's concerns and a pathway forward. In June 2007, the Commission directed the staff to continue the rulemaking on the negotiated new approach. In addition, the Commission directed the staff to "remain diligent in working with EPA and appropriate States." The staff believes the best approach to meet this direction is to expand the working group to include new members from EPA and the Conference of Radiation Control Program Directors, Inc. (CRCPD).

The proposed rule is scheduled to be delivered to the Commission by April 29, 2008.

**Planned Membership**

The working group currently consists of representatives from NRC's:

- FSME/DILR/Rulemaking Branch A,
- FSME/DWMEP/Uranium Recovery Branch
- FSME/Division of Materials Safety and State Agreements (DMSSA), and
- Office of the General Counsel (OGC)

The working group also currently has a representative from the state of Texas, representing the Organization of Agreement States, Inc. (OAS).

The working group is being expanded to include representatives from:

- CRCPD and
- EPA.

A representative of NRC's Office of Administration, Office of Enforcement, Office of Information Services and Office of International Programs may participate as a full member, if desired, during consideration of any issues involving their areas of responsibilities.

The representative of FSME/DILR/Rulemaking Branch A serves as chair of the group.

### **Role of Working Group and Level of Effort Expected of Participants**

The primary role of the working group is to assist in developing the draft proposed rule package, including rule text, statements of consideration, and supporting information for regulatory analyses. It is anticipated that, based on working group discussion, draft document text will be prepared by Rulemaking Branch A and Uranium Recovery Branch staff for review by the working group.

We anticipate that the working group will meet on a maximum bi-weekly basis with additional consultations by phone and e-mail as needed to provide input to and comment on the draft document text. Working group members from EPA and the States may participate in meetings via telephone. Most of the effort for working group members would occur during development of the proposed rule and regulatory analyses starting in August 2007 and involving about 2- 3 weeks of effort spread out over about 5-6 months. Once these documents are in office review (in late 2007, early 2008), the workload should diminish to about 1-2 weeks over the next 3-4 months. Depending on the nature of the comments received on the proposed rule, additional effort may be needed before the final rule is published. These are initial estimates, and may vary as the working group begins its examination of the task in more detail. A detailed schedule will be developed and provided to the working group members. Additional background material, regarding scope, preliminary rule text, and preliminary estimates of persons affected, will be developed and provided to working group members in advance of the next working group meeting.

### **Expected Products**

The working group is expected to provide inputs in producing a draft rulemaking package for a proposed rule, including: (1) a draft Federal Register notice to issue a proposed rule implementing the groundwater protection at ISLs; (2) a regulatory analysis of costs and benefits resulting from the proposed rule and a Paperwork Reduction Act statement of the recordkeeping burden of the proposed rule and (3) a description of Agreement State compatibility considerations for the proposed rule. The working group is also expected to provide inputs in producing a draft rulemaking package for a final rule.

### **Steering Committee**

No steering committee is proposed for this working group at this point of time.