

WHAT IS EPA UP TO THESE DAYS?
Potential Regulatory and Policy Changes Related to Mining
December 2010

Mercury Air Emission Standards for Gold Processing Facilities

On April 29, 2010, EPA issued for public notice in the *Federal Register*, a proposed Maximum Achievable Control Technology (MACT) Standard for mercury air emissions for the Gold Mine Ore Processing industry under Clean Air Act Section 112(c)(6). EPA estimates that the MACT standards under the proposed rule would require gold ore processors and producers to reduce air emissions of mercury by more than 73 percent. Gold ore processors would have two years to comply with the toxics control requirements after they are finalized. EPA is currently reviewing comments received on the proposed rule and plans to issue the final regulations by the end of 2010.

Website: <http://www.epa.gov/air/oaqps/organization/sppd/mmg.html>
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Toxics Release Inventory (TRI) Reporting Requirements

EPA's TRI Program is developing modifications and/or clarifications to TRI reporting requirements and terms that apply to metal mining operations. EPA had an on-line stakeholder discussion forum that ended on November 25, 2009. The forum covered four topics: ways that TRI can drive environmental improvement, accurate measures of releases, releases beyond containment, and definitional issues. EPA plans to public notice a proposed rule by early 2011.

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CERCLA 108(b) Financial Responsibility Initiative

Section 108(b) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) authorizes the President (who has delegated this authority to EPA) to establish financial responsibility requirements for classes of facilities "consistent with the degree and duration of risks associated with the production, transportation, treatment, storage or disposal of hazardous substances." EPA is fulfilling this requirement by developing financial responsibility regulations for portions of certain industry classes as Agency priorities. In a July 28, 2009 *Federal Register* Notice, EPA identified its intent to propose regulations requiring that hardrock mining facilities establish and maintain

evidence of financial responsibility under CERCLA Section 108(b). EPA is evaluating existing State and Federal financial assurance requirements to determine the scope of additional financial assurance that may be required. EPA is also evaluating different implementation schemes. EPA's goal is to publish notice of a proposed regulation in 2011 for public comment.

EPA published another *Federal Register* notice on January 6, 2010, naming as additional priority classes portions of the Chemical Manufacturing, Petroleum and Coal Products Manufacturing, and Electric Power Generation, Transmission, and Distribution industries

Website: <http://www.epa.gov/superfund/policy/financialresponsibility/index.html>
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Ore Mining and Dressing Effluent Limitation Guidelines (ELGs)

The Ore Mining and Dressing ELGs (40 CFR 440) were originally developed in 1982. The Clean Water Act requires that EPA regularly review and, if needed, update ELGs. EPA recently completed a study of the Ore Mining and Dressing ELGs the results of which will be published by the end of 2010 as part of the 2010 Effluent Guidelines Program Plan. EPA identified the Ore Mining and Dressing category for two reasons: (1) the industry has a high toxic weighted pound equivalent discharge estimate of process wastewater relative to other industries, and; (2) comments received on previous Plans assert that better controls are needed for stormwater discharges to surface water at ore mining sites. EPA analyzed data on process water and storm water discharges, conducted a review of ore mining industry NPDES permit compliance, and analyzed information on possible best available control technologies for process water and storm water discharges.

Website: <http://www.epa.gov/guide/304m/index.html>
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Review of EPA's Regulations for Uranium and Thorium Milling 40 CFR Part 192

The U.S. Environmental Protection Agency (EPA) is reviewing and may potentially revise its regulations for uranium and thorium milling to bring them up-to-date. The regulations now in effect, 40 CFR Part 192, were originally issued in 1983 under the authority of the Uranium Mill Tailings Radiation Control Act (UMTRCA), and last revised in 1995. They establish standards for protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with uranium and thorium ore processing, possession, transfer, and disposal of resulting waste materials. The final cross-media standards must be adopted by the Nuclear Regulatory Commission and,

subsequently, their Agreement States, as well as the Department of Energy. EPA will be reviewing all of its standards in the existing regulations, potentially revising them to take into account:

- changes in uranium industry technologies (such as utilization of the In-Situ Leaching recovery process as the principal current technology for extracting uranium) and their potential environmental impacts,
- revisions in EPA drinking and groundwater protection standards,
- judicial decisions concerning the existing regulations,
- issues relating to environmental justice, Tribal, and low-income populations,
- updated dose and risk factors, and scenarios for assessing radiological and nonradiological risk,
- facilities proposed in states outside existing uranium mining and milling areas,
- costs and benefits of possible revisions.

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Review of EPA's Regulations on Radon Emissions from Active Uranium Mill Tailings

EPA is currently reviewing its regulations for controlling radon emissions from active uranium mill tailings facilities in 40 CFR Part 61, Subpart W. This National Emissions Standard for Hazardous Air Pollutants was issued under authority of the Clean Air Act. In accordance with the Clean Air Act Amendments of 1990, EPA has formed a workgroup to review, and possibly revise the standard. EPA invites and encourages the public to provide comments on this review of Subpart W. As the Workgroup on Subpart W develops its tentative rulemaking, EPA will provide up-to-date information on recent or upcoming conference calls, resource documents, and contact information.

Website: <http://www.epa.gov/radiation/neshaps/subpartw/rulemaking-activity.html>
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Mining and Primary Mineral Processing Industry Compliance Assistance Guide

Since 2005, EPA has worked with industry representatives from the gold and copper mining and mineral processing sectors to identify environmental issues, areas of potential noncompliance, and good management practices for managing hazardous wastes. EPA is developing a Compliance Assistance Guide to provide compliance assistance to both regulators and the regulated community in addressing areas of concern. The guide will include: a description of the applicability of the Resource Conservation and Recovery Act, Clean Water Act, Safe Drinking Water Act, Toxic Substance Control Act, and Clean Air

Act to the mining and mineral processing industry; mining and mineral processing sector descriptions, including waste generation and compliance concerns; a list of facilities; discussion of best management practices; and a list of compliance assistance resources. The Guide is currently draft and will be finalized in 2011.

Website: <http://www.epa.gov/compliance/assistance/sectors/mineralsmining.html>
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Siting Clean and Renewable Energy on Contaminated Lands and Mining Sites Initiative

EPA is encouraging renewable energy development on current and formerly contaminated land and mining sites. This initiative identifies the renewable energy potential of these sites and provides other useful resources for communities, developers, industry, state and local governments or anyone interested in reusing these sites for renewable energy development. EPA believes that through coordination and partnerships among federal, state, tribal and other government agencies, utilities, communities and the private sector, many new clean and renewable energy facilities can be developed on these potentially contaminated properties. The EPA Office of Solid Waste and Emergency Response (OSWER) Center for Program Analysis (OCPA) is seeking opportunities to facilitate the reuse of contaminated properties and active and abandoned mine sites for clean and renewable energy generation

EPA's *Siting Clean and Renewable Energy on Contaminated Lands and Mining Sites Initiative* takes a multi-pronged approach to site cleanup and clean and renewable energy production facilities on contaminated land, by conducting activities including:

- Working with the Department of Energy's National Renewable Energy Lab (NREL) to identify Brownfields, RCRA, Superfund and mining sites with wind, solar, and biomass development potential;
- Outlining state and federal incentives for developing clean and renewable energy facilities and utilizing contaminated lands;
- Supporting pilot projects that assess potential wind and solar generation potential at EPA contaminated lands and mining sites;
- Estimating the greenhouse gas benefits from siting clean and renewable energy on contaminated lands and mining sites; and
- Conducting outreach to highlight how EPA can support clean and renewable energy development on contaminated properties and mining sites.

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Mining Information Sessions

EPA Region 10 has developed a one-day course designed to provide tribes with information regarding mining and have an open conversations with tribes on this topic. The session consists of four segments including: fundamentals of mining and mineral processing; potential environmental impacts and ways to prevent, minimize, and control impacts; laws and regulations that pertain to mining; and, ways that tribes can be involved in the regulatory process. In addition, EPA Region 10 has put together an additional session that describes the New/Proposed National and Regional Policy and Regulation Developments that pertain to mining.

EPA Region 10, in partnership with the Alaska Department of Natural Resources and the US Army Corps of Engineers, will be conducting Mining Information Sessions in Dillingham and Newhalen in Spring/Early Summer 2011. EPA will hold several sessions at the Alaska Forum on the Environment in February 2011 on New/Proposed National and Regional Policy and Regulation Developments that pertain to mining.

Website: Region 10 Mining Webpage
<http://yosemite.epa.gov/r10/ECOCOMM.NSF/Programs/Mining>

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Questions about this handout?

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