URANIUM PRODUCERS OF AMERICA

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May 15, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Uranium Producers of America Recommendations for Regulations to Repeal/Modify (Docket: EPA-HQ-OA-2017-0190)

Dear Administrator Pruitt:

On behalf of the Uranium Producers of America (UPA), we applaud the Environmental Protection Agency's (EPA) effort to solicit public input on regulations that may be appropriate for repeal, replacement, or modification, consistent with Executive Order 13777.

As you conduct your review, we encourage EPA to also examine rules proposed at the end of the Obama Administration, particularly the proposed rule (Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings under 40 CFR Part 192) related to EPA's regulation of in situ uranium recovery (ISR). The agency initially proposed a similar rule in January 2015, but the original proposal was withdrawn after significant concerns were raised by the Nuclear Regulatory Commission (NRC), which is the primary regulator of ISR uranium recovery, as well as by state regulators and the industry. Unfortunately, the new version of the proposed rule, which was issued on January 19, 2017, is equally problematic and should be immediately withdrawn.

EPA provides no scientific justification for the proposed rule, fails to fully account for the significant costs of complying with the rule, overlooks the small business impact, and ignores its Science Advisory Board's recommendation to review the extensive groundwater data available for current and previous ISR projects.

Executive Order 13777 directs agencies to identify regulations that, among other things (1) eliminate jobs, or inhibit job creation; (2) are outdated, unnecessary, or ineffective; (3) impose costs that exceed benefits; or (4) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies. The EPA's flawed Part 192 rulemaking clearly meets these criteria and should be eliminated.

- **Part 192 Rulemaking will Cost Jobs and Puts the Domestic Industry at Risk -** If finalized, EPA's Part 192 rule would likely mark the end of ISR uranium recovery in the United States and lead to significant workforce reductions. At a time when the United States is importing 94 percent of the uranium needed to fuel our domestic nuclear reactors, the Administration should be working to strengthen the industry rather than putting us out of business with unnecessary and unjustified regulations.

- **Part 192 Rule is Unnecessary and Unjustified -** EPA provides no evidence that the current regulatory framework is insufficient. ISR uranium operations are already highly regulated by the EPA, NRC and state regulators. The proposed rule will simply add another layer of unnecessary, duplicative and, in some cases, contradictive regulation to current federal and state regulations. EPA has publicly acknowledged that the agency is not aware of a single example of an ISR uranium project leading to groundwater contamination of any non-exempt aquifer. The basis for a rulemaking must be supported by facts and not "what if" scenarios. There is no scientific evidence supportive of this rule.

- **Part 192 Rule Imposes Significant Costs with No Measurable Benefits -** EPA's Part 192 rule would impose significant costs on the industry, far beyond the estimates included in the proposed rule. UPA members estimate the costs associated with complying with the rule would range from 20-100 percent of total revenue. This means the rulemaking would put most, if not all, of the domestic producers out of business, and yet the EPA has failed to quantify any measurable benefit. Instead, the EPA simply speculates that this rule may potentially reduce risk of contamination, without providing any evidence or justification.

- **EPA Lacks the Legal Authority for Part 192 Rulemaking -** The Uranium Mill Tailings Radiation Control Act (UMTRCA) provides EPA the authority to set generally applicable standards for uranium mill tailings sites (40 CFR Part 192, Subpart D). However, the Nuclear Regulatory Commission remains the primary regulator and is charged with implementing the standards. The EPA's proposed rule goes far beyond setting generally applicable standards and proposes specific implementation criteria (*e.g.*, requirement for specific groundwater stability monitoring periods). The pursuit of this rule creates a serious inconsistency between the various agencies and rules already regulating ISR operations.

- **EPA Failed to Consult State Regulators -** The EPA failed to consult state regulators in developing its initial and revised proposed rule, and the EPA ignored offers from states to provide technical expertise. The Texas Commission on Environmental Quality and the industry offered to assist EPA in reviewing data on actual groundwater conditions at Texas sites, including conducting additional sampling if warranted. EPA ignored that offer. The industry also provided EPA an alternative approach to address concerns about ISR standards not being codified. Again, the EPA never responded.

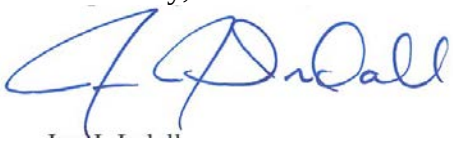
- **EPA Failed to Consider Existing Groundwater Data and Peer-Reviewed Research –** The Part 192 rulemaking is based on an EPA-generated hypothesis. EPA ignored the reams of data available for current and historic uranium projects, and EPA failed to consider any of the peer-reviewed research in this area. EPA ignores a 2009 NRC assessment which concluded there is no evidence an ISR uranium project has contaminated or degraded the quality of groundwater at a nearby water supply well. Instead, EPA appears to rely heavily on a report from the Natural Resources Defense Council that was not peer-reviewed and includes suppositions that have been rejected in several judicial proceedings.

We encourage the EPA to immediately withdraw this flawed and unnecessary rulemaking. At a time when we are importing 94 percent of the uranium needed to power our nuclear reactors, we should be doing everything we can to support and grow the domestic uranium industry. The consequences of this proposed rule would likely result in further job contraction and virtual elimination of the domestic ISR uranium industry.

In addition to withdrawing the Part 192 rulemaking, we encourage the EPA to also revisit and repeal a rule finalized on January 17, 2017, setting a radon emission standard for operating uranium mill tailings (revision of 40 CFR Part 61 Subpart was published in 82 FR 5142). The rule adds considerable costs to the domestic industry, and yet the science shows radon emissions from uranium mill tailings impoundments are minimal to none. Further, there is no legal or regulatory basis to apply Subpart W to evaporation ponds at uranium recovery facilities.

We would welcome the opportunity to meet with you or your team to discuss our concerns in greater detail. Thank you again for making this regulatory review a priority. We look forward to working with you to address these barriers that limit our ability to compete in a global market.

Sincerely,



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