



[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 951

[Docket Number DOE-HQ-2014-0021]

RIN: 1990-AA39

Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: The U.S. Department of Energy (DOE) has published a notice of proposed rulemaking (NPR), which proposes regulations under section 934 of the Energy Independence and Security Act of 2007 (EISA). The proposed regulations would establish a retrospective risk pooling program whereby nuclear suppliers would pay for any contribution made by the United States government to an international supplementary fund created under the Convention for Supplementary Compensation for Nuclear Damage (CSC) in the event of certain nuclear incidents not covered by the Price-Anderson Act. The NPR provided a deadline of March 17, 2015 for comments. In response to requests for an extension, this document announces an extension of the comment period to April 17, 2015. This document also requests comment by

April 17, 2015 on specific questions to inform a process for DOE to obtain additional data and information.

DATES: DOE will accept comments and information regarding the NOPR and development of regulations under section 934 published on December 17, 2014 (79 FR 75076), and the specific questions identified in this document no later than April 17, 2015. DOE will consider any comments received by midnight of April 17, 2015, and deems any comments received by that time to be timely submitted.

ADDRESSES: Interested persons may submit comments identified by RIN 1990-AA39 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* Section934Rulemaking@Hq.Doe.gov . Include Section 934 in the subject line of the message.
- *Mail:* Ms. Sophia Angelini, U.S. Department of Energy, Office of General Counsel, Mailstop GC-72, 1000 Independence Avenue, SW, Washington, DC 20585. Please submit one signed original and three copies of all comments.
- *Instructions:* All submissions received must include the agency name, docket number [DOE-HQ-2014-0021], and the RIN for this rulemaking. Note that all comments received will be posted, without change, including personal information.

- *Docket:* For access to the docket to read background documents or comments received, go to the *Federal eRulemaking Portal* at <http://www.regulations.gov>, or the Web site specifically established for this proceeding at <http://www.energy.gov/gc/convention-supplementary-compensation-rulemaking>.

FOR FURTHER INFORMATION CONTACT: Sophia Angelini, Attorney-Advisor, Office of the General Counsel for Civilian Nuclear Programs, GC-72, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone: (202) 586-0319.

SUPPLEMENTARY INFORMATION: On December 17, 2014, DOE published a NOPR in the Federal Register (79 FR 75076) in which it proposed regulations under section 934 of EISA to establish a retrospective risk pooling program whereby, in the event of certain nuclear incidents, nuclear suppliers would pay for any contribution by the United States government to the international supplementary fund created by the CSC. The NOPR provided that written public comments were to be received by DOE no later than March 17, 2015. By letter dated January 28, 2015, DOE received a request from the Nuclear Energy Institute (NEI) for an extension of the public comment period to May 19, 2015, stating that the complexity of the NOPR requires extensive analysis on a number of issues such as the proposed reporting requirements, the potential impact of the two alternative methods of calculating the risk premium payment to a particular nuclear supplier and the nuclear industry as a whole, and clarification of key terms in the proposed rule.

On February 20, 2015, DOE held a public workshop on the proposed rulemaking (80 FR 4227). In advance of the public workshop, DOE solicited from the public questions or suggestions for topics to be addressed at the workshop in order to structure the discussion and

enhance participation (80 FR 4228). DOE received extensive questions and topic suggestions from the Contractors International Group on Nuclear Liability (CIGNL) and NEI. The day-long workshop was attended by representatives of various nuclear industry organizations and other entities. The participants at the workshop raised a number of questions and expressed concerns regarding, among other things, the level of information and data available to DOE on the cost and burden of reporting requirements under the proposed rule, the nature and quantity of nuclear exports and the nuclear suppliers that export, and the allocation of risk and premium payments across and among nuclear suppliers. Thereafter, DOE received written requests from other participants at the public workshop echoing the NEI request for an extension of time for public comment given the complexity of the issues raised in the proposed rule and further described at the public meeting. All these entities requested an extension of the comment period to May 19, 2015, to allow sufficient time to review the proposed rule and formulate comments to the extent possible given available information.

DOE has considered the written extension requests noted above, along with the comments and information provided prior to and at the public meeting, and determined that the comment period on the NOPR should be extended to April 17, 2015, which provides, in total, a 120 day comment period.

DOE is especially interested in potential modifications to the proposals set forth in the NOPR, in light of the issues discussed at the workshop. These issues include: (1) the extent, if any, to which transactions prior to the effective date of the rule should be considered in the allocation formula; (2) the justification for capping the allocation assigned to a single entity; (3) the possibility of different caps for different types of suppliers; (4) the criteria for classifying a supplier as a small entity exempt from the allocation formula; (5) goods and services that pose no

or de minimis risk of triggering the international supplementary fund; (6) alternative methodologies for evaluating risk, including examples of existing risk allocation mechanisms in the nuclear industry; and (7) potential modification to simplify, minimize and/or clarify the burden on industry.

In addition, DOE intends to conduct additional data and information gathering in response to and in consideration of statements in the written comments and at the public workshop. These statements suggest certain additional information should be obtained by DOE and is necessary for the public to comment on the NOPR. In response to these statements, DOE is requesting any entity that believes additional information is needed to provide detailed comments as to the specific information it believes is needed.

DOE is enumerating several general questions to assist DOE in its additional data gathering effort. The general questions for which DOE seeks comment are: (1) what data and information should be gathered on U.S. nuclear suppliers and their exports (for example, what entity should be considered the exporter (especially in situations where a supplier employs an entity to facilitate the export), should quantity, value and/or another factor be used to measure exports, and what time period should be used); (2) what data and information should be gathered on nuclear suppliers to inform reporting requirements (for example, what are the recordkeeping methods employed in the nuclear industry and what is currently reported to other government agencies); and (3) what data and information should be gathered on the allocation of risk across and among nuclear suppliers and nuclear supplier groups. Comments concerning additional information to be gathered will facilitate DOE's effort to obtain additional data and information to inform the proposed rulemaking and should be provided to DOE by April 17, 2015. DOE intends to make the additional data and information it obtains available for public review and

comment, the date and timing of which will be announced in a subsequent Federal Register notice.

DOE will consider any comments received by midnight of April 17, 2015, and deems any comments received by that time to be timely submitted. To the extent commenters provide confidential business information, pursuant to 10 CFR 1004.11, any person submitting information he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. Submit these documents via e-mail or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination. Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) a description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

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Deputy General Counsel for Energy Policy

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