



Convention on Supplementary Compensation Rulemaking

Proposed Information Collection

Department of Energy Office of General Counsel

September 16, 2016

Background - CSC Rulemaking

- Section 934 of the Energy Independence and Security Act of 2007 (EISA) implements for the United States the Convention on Supplementary Compensation for Nuclear Damage (CSC), which provides the basis for a global nuclear liability regime
- Section 934 establishes a retrospective risk pooling program to allocate among U.S. nuclear suppliers any contingent costs that the U.S. may be obligated to pay under the CSC in the event of a covered nuclear incident
- Section 934 charges DOE with the responsibility to promulgate regulations to establish the program and determine the risk assessment formula to allocate the contingent costs among U.S. nuclear suppliers

Background – Proposed Rulemaking

- DOE issued a Notice of Proposed Rulemaking (NOPR) on December 17, 2014 (79 Fed. Reg. 75076)
- In the NOPR DOE proposed two alternate regulatory approaches for calculating the risk assessment formula:
 - Alternative 1 – based on nuclear goods or services exported
 - Alternative 2 – based on nuclear sector supplied
- DOE held a public meeting and a public workshop on the NOPR in 2015
- DOE received numerous public comments and recommendations on a variety of topics related to the rulemaking

Comments on Proposed Rule Related to the Proposed Information Collection

- Need for greater certainty regarding the total number of nuclear suppliers that would be part of the retrospective risk pooling program
- Length of the time period for reporting on nuclear exports
- Need for additional data and information on aggregate U.S. nuclear exports to foreign nuclear installations
- Need for additional data and information on aggregate value of nuclear exports
- Need for additional data and information to determine “small nuclear supplier exclusion”

Overview

of Proposed Information Collection

- Purpose: The information collection is proposed at this time to:
 - respond to public comments received on the NOPR on the need for additional information on nuclear suppliers and their exports; and
 - enable DOE to collect additional data and information from the nuclear industry to support further development of the CSC rulemaking
- Applicability: Any person that qualifies as a Nuclear Supplier, as defined and described in the Instructions for the Collection Form
- Reporting Timeframe: January 1, 2008 through December 31, 2015
- This is a one-time collection of information intended to further develop the CSC rulemaking

Contents of the Information Collection Form

- Questions 1, 2 and 3
- Purpose: identify Nuclear Supplier that may potentially be part of the retrospective risk pooling program
- Requests basic information about each Nuclear Supplier, such as place of business and type of nuclear goods or services supplied
 - Question 1 – Name and Address of the Nuclear Supplier
 - Question 2 – Nuclear Supplier’s point of contact information; name, phone and email address
 - Question 3 – Nuclear Supplier as successor in interest to another entity, if applicable

Contents of the Information Collection Form, Cont'd.

- Questions 4, 5 and 6
- Purpose: additional background information on the Nuclear Supplier that may potentially be part of the retrospective risk pooling program
- Requests information on Nuclear Supplier and status
 - Question 4 – Brief description of the type or category of nuclear goods or services of the Nuclear Supplier, and the purpose or function of those goods or services in the nuclear industry.
 - Question 5 – is the Nuclear Supplier a public or private entity
 - Question 6 – is the Nuclear Supplier considered a small business under SBA standards

Contents of the Information Collection Form, Cont'd.

- Question 7 and 8, Reportable Information, Tables 1 – 5; Certification
- Purpose: when aggregated by DOE, would provide the total number of Nuclear Suppliers exporting nuclear goods or services and the value of those nuclear goods or services, by nuclear sector
- This type of information could be used to establish key parameters for the risk-informed formula used to calculate a Nuclear Supplier's share of any contingent cost
- Certification is to ensure a Nuclear Supplier reports accurately and to the best of their knowledge when completing the form - accurate information benefits the interests of DOE and all Nuclear Suppliers

Reportable Information

- Question 7 – directs Nuclear Supplier to fill out Tables 1 to 5, as applicable
- Tables 1 to 5 – arranged by nuclear sector: Power and Research Reactors; Enrichment and Fuel Fabrication Facilities; Irradiated Nuclear Fuel Reprocessing Facilities; Nuclear Material Storage Facilities; and Nuclear Material Transportation
- Tables request information on:
 - foreign nuclear installations receiving the nuclear goods or services
 - If applicable, the type of a license or authorization obtained for the export
 - Time period (year) of export
 - Value of all nuclear goods or services supplied to each foreign nuclear installation

Instructions for Completing Form

- Instructions provide important information on who is required to complete the Form and how the Form should be completed
- Nuclear Supplier is defined and described for purposes of completing the form in the Q&A, “Who is Required to File Form DOE XX-XXXX?” and “Who is Not Required to File Form DOE XX-XXXX?”
 - Nuclear Suppliers required to complete the form are those who:
 - have directly supplied nuclear goods or service or transported nuclear material to a nuclear installation outside the United States, or
 - have reasonable knowledge that your nuclear goods or services, without substantial transformation prior to export, were supplied to a foreign nuclear installation during the reporting time period, or
 - are the principal party in interest in the supply, whether they or someone on their behalf obtained any applicable U.S. government license or authorization for the export.

Instructions for Completing the Form, Cont'd.

- Nuclear Installation and Nuclear Material are defined consistent with the CSC and as proposed in the NOPR
- Instructions explain that the request for information on the regulatory regime under which the nuclear goods or services were exported is to be provided, as applicable, and to the extent reasonably known to the Nuclear Supplier.
 - E.g., a sub-supplier need not provide this information if not known
- Instructions provides example entries for each column in Tables 1-5 as guidance on how to report the information in the Tables

Next Steps for the Information Collection and Rulemaking

- At the close of this public comment period (October 3, 2016), and after review and consideration of public comments, DOE expects to finalize the Collection Form and submit it to OMB for approval.
- Upon submittal to OMB, DOE will open an additional 30-day public comment period on the information collection, including release of any updated version of the Collection Form and DOE's response to public comments received.
- DOE is focused on developing and completing the information collection process as soon as practicable.
- When the information collection process is complete, DOE will determine the next step in its rulemaking process, including whether to issue a supplemental proposed regulation and any additional opportunities for review and comment on the rulemaking.