



URANIUM PRODUCERS OF AMERICA

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April 17, 2015

Via Electronic Mail: Section 934Rulemaking@hq.doe.gov

Ms. Sophia Angelini
Attorney-Advisor
U.S. Department of Energy
Office of the General Counsel for Civilian Nuclear Power Programs
Mailstop GC-72, Section 934 Rulemaking
1000 Independence Avenue SW.
Washington DC 20585

Re: Uranium Producers of America
**Comments on Convention or Supplementary Compensation for Nuclear
Damage Contingent Cost Allocation: Notice of Proposed Rulemaking**
79 Fed. Reg. 75076 (December 17, 2014)
Docket No.: DOE-HQ-2014-0021

Dear Ms. Angelini,

The Uranium Producers of America (“UPA”) appreciates the opportunity to comment on the proposed rulemaking related to the United States’ obligations under the Convention on Supplementary Compensation for Nuclear Damage (“CSC”).

The UPA is a group of domestic uranium mining companies whose mission is to promote the viability of the front end of the nation’s nuclear fuel industry. UPA members conduct uranium exploration, development and mining operations in Arizona, Colorado, Nebraska, New Mexico, South Dakota, Texas, Utah and Wyoming. The UPA supports the DOE’s efforts to implement the retrospective risk pooling program. UPA agrees with DOE that providers of natural uranium in the form of U_3O_8 , whether directly or as an intermediary, should be excluded from the definition of “nuclear supplier” under the statute and DOE’s regulations.

Section 934(b)(7) defines “nuclear supplier” as a covered person (or a successor in interest of a covered person) that (A) supplies facilities, equipment, fuel, services or technology or (B) transports nuclear materials that could result in a covered incident. UPA members would not fall within the meaning of this definition. Uranium miners and millers do not supply services. The natural uranium our members produce must undergo conversion and enrichment in order to concentrate the fissile material to be useful for fuel, and then must be fabricated into fuel suitable for use in a specific reactor. U_3O_8 or natural uranium is not “fuel” as set forth in the definition.

The proposed rule also incorporates into the definition of a “covered nuclear supplier” facilities that are subject to 10 C.F.R. Part 21. Part 21, however, is limited to a supplier of basic components. U₃O₈ is a raw material in the fabrication of fuel and would not be a “basic component” subject to Part 21.

Producers of U₃O₈ do not supply services that pertain to the “operation” of a covered installation. Consistent with the proposed alternatives for risk allocation in the NOPR, equipment and services pertaining to “operation” of a covered installation is equipment and services specifically intended for use in structures, systems, or components that are important to safety at a nuclear installation. Natural uranium is not equipment or services that control the nuclear safety risk at a covered facility. This commodity (and services related to producing the commodity) should not be considered to be goods or services related to operation of a nuclear facility and therefore should not be included in the risk pooling program.

In the current NOPR, DOE explains that, in its view, the statutory definition of nuclear supplier does not include providers or marketers of U₃O₈, whether directly or as an intermediary. DOE explicitly addresses application of Section 934 to the uranium conversion industry:

... the Department concludes that the definition of “nuclear installation” does not include radioactive waste disposal facilities or uranium mining, milling, and conversion facilities. Uranium mining, milling and conversion facilities do not fall within the definition of “nuclear installation” as they do not involve the use of nuclear fuel or nuclear material as defined in the [CSC]. In addition, DOE agrees that suppliers of natural or depleted uranium or uranium conversion services are not suppliers of fuel and thus not nuclear suppliers that would be subject to the requirements of this proposed rule.

79 Fed. Reg. at 75082. UPA agrees with DOE that uranium mining, milling and conversion should be excluded from the definition of “nuclear supplier” in EISA Section 934(b)(7) and not included in the “Risk Informed Assessment Formula” in Section 934(e)(2)(C)(i).

While the proposed regulation would simply adopt the definition of “nuclear supplier” from Section 934(b)(7), the definition of nuclear supplier could be improved by clarifying – within the regulation itself – its applicability to suppliers of uranium mining, milling and conversion services. UPA joins ConverDyn in recommending the revision of the definition of nuclear supplier in 10 C.F.R. §951.3 as follows:

Nuclear supplier means a covered person (or a successor in interest of a covered person) that –

- (1) Supplies facilities, equipment, fuel, services, or technology pertaining to the design, construction, operation, or decommissioning of a covered installation, or
- (2) Transports nuclear materials that could result in a covered incident.

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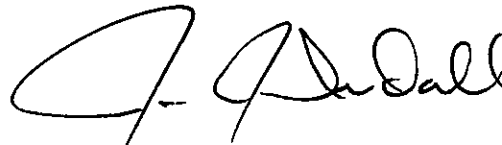
The definition of nuclear supplier does not include suppliers of natural or depleted uranium or uranium conversion services.

UPA would request that DOE should affirmatively reiterate in the *Federal Register* notice for the final rule that suppliers of natural or depleted uranium or uranium conversion services are not suppliers of fuel and thus not nuclear suppliers that would be subject to the requirements of this proposed rule.

UPA supports DOE's conclusions regarding the scope and applicability of the proposed rule to the domestic uranium conversion industry. UPA agrees with DOE that uranium mining, milling and conversion should be excluded from the definition of "nuclear supplier" in EISA Section 934(b)(7) and not included in the "Risk Informed Assessment Formula" in Section 934(e)(2)(C)(i).

Thank you for your consideration of UPA's comments.

Yours very truly,

A handwritten signature in black ink, appearing to read "Jon J. Indall". The signature is fluid and cursive, with a large initial "J" and "I".

Jon J. Indall
Counsel for UPA

JJI:tlf