

MEMORANDUM OF EX PARTE COMMUNICATION WITH THE DEPARTMENT OF ENERGY

Date: Thursday, August 1, 2013

Attendees:

Richard Goorevich, Department of Energy/National Nuclear Security Administration
Katie Strangis, Department of Energy/National Nuclear Security Administration
Jed D' Ercole, Department of Energy/National Nuclear Security Administration
Vincent Esposito, House Committee on Energy and Commerce
Peter Spencer, House Committee on Energy and Commerce
Jeff Baran, House Committee on Energy and Commerce

Summary of what was discussed:

The discussion concerned changes between the September 2011 Notice of Proposed Rulemaking (NOPR) to update regulations relating to Assistance to Foreign Atomic Energy Activities and the July 2013 Supplemental Notice of Proposed Rulemaking (SNOPR) (RIN 1994-AA02). Any information that is not contained in the current regulation, NOPR, or SNOPR was not discussed at this meeting.

Richard Goorevich highlighted four main areas of the SNOPR that varied from the NOPR. He noted that changes in the SNOPR reflect feedback and suggested changes submitted in response to the NOPR. The first major change in the SNOPR is the change in country lists for General Authorization and Specific Authorization.

The SNOPR proposes a move to a Generally Authorized list of countries which meet the statutory requirement of a non-inimicality determination by the Secretary of Energy. In the second rulemaking, the Office of Management and Budget required DOE/NNSA to assess the economic significance of the proposed rule. DOE/NNSA performed an analysis with the U.S. Department of Commerce (DOC) based on four well known and authoritative projections of nuclear trade over the next 30 years.

The second major change contained in the SNOPR relates to non-U.S. persons employed at U.S. nuclear installations under NRC rules. A third major change contained in the SNOPR relates to operational safety assistance. Goorevich explained that often, companies submit applications claiming that proposed activities fall under the mantle of operational safety assistance. Goorevich explained that there are two main views on operational safety: domestic trainings and assistance to foreign nationals

Goorevich explained several other areas where the SNOPR seeks to clarify the NOPR and the present Rule. These include: what qualifies as direct and indirect assistance to the production of Special Nuclear Material (SNM), the *de minimis* quantity rule, the technical scope of 810 authorizations, back-end activities, including medical isotope production, rules governing the activities of U.S. persons working for the IAEA, and the definition of public information.

A participant asked if this addition in the SNOPR expanded or narrowed activities covered by Part 810. Goorevich explained that the SNOPR clarifies, but does not expand activities that apply to 810 regulations.