

[6450-01-P]

DEPARTMENT OF ENERGY

Excess Uranium Management: Effects of DOE Transfers of Excess Uranium on Domestic Uranium Mining, Conversion, and Enrichment Industries; Request for Information

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) is planning to issue a new Secretarial Determination covering continued transfers of uranium for cleanup services at the Portsmouth Gaseous Diffusion Plant and for down-blending of highly-enriched uranium to low-enriched uranium (LEU). This RFI solicits information from the public about the effects of the proposed transfers in the uranium markets and possible consequences for the domestic uranium mining, conversion and enrichment industries. The RFI also solicits recommendations about factors that the Department should consider and/or the methodology it should use in assessing the possible impacts of transfers. DOE will then consider this information as part of its analysis to determine whether its transfers would have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry.

DATES: DOE will accept comments, data, and information responding to this RFI submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons may submit comments by any of the following methods.

1. Email: RFI-UraniumTransfers@hq.doe.gov. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
2. Postal Mail: Mr. David Henderson, U.S. Department of Energy, Office of Nuclear Energy, Mailstop NE-52, 19901 Germantown Rd., Germantown, MD 20874-1290. If possible, please submit all items on a compact disk (CD), in which case it is not necessary to include printed copies.
3. Hand Delivery/Courier: Mr. David Henderson, U.S. Department of Energy, Office of Nuclear Energy, Mailstop NE-52, 19901 Germantown Rd., Germantown, MD 20874-1290. Phone: (301) 903-2590. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Instructions: All submissions received must include the agency name for this request for information. No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information may be sent to:

Mr. David Henderson, U.S. Department of Energy, Office of Nuclear Energy, Mailstop NE-52, 19901 Germantown Rd., Germantown, MD 20874-1290. Phone: (301) 903-2590. Email: David.Henderson@Nuclear.Energy.Gov.

For further information on how to submit a comment, contact Mr. David Henderson at (301) 903-2590 or by email: David.Henderson@Nuclear.Energy.Gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Authority and Background
- II. Issues on Which DOE Seeks Comment and Information
- III. Submission of Comments
- IV. Confidential Business Information

I. Authority and Background

Title I, Chapters 6–7, 14, of the Atomic Energy Act of 1954 (42 U.S.C. § 2011 et seq., “AEA”) authorizes the Department of Energy to transfer special nuclear material and source material. Enriched uranium and natural uranium are types of special nuclear material and source material, respectively. In 1996, Congress enacted the USEC Privatization Act (Pub. L. 104-134, 42 U.S.C. § 2297h et seq.), which places certain limitations on DOE’s authority to transfer uranium from its excess uranium inventory. Specifically, under section 3112(d)(2)(B) of the USEC Privatization Act (42 U.S.C. § 2297h-10(d)(2)(B)), DOE may make certain transfers of natural or low-enriched uranium if the Secretary determines that the transfers “will not have an adverse material impact on the domestic uranium mining, conversion or enrichment industry,

taking into account the sales of uranium under the Russian Highly Enriched Uranium Agreement and the Suspension Agreement.” Section 306(a) of Division D, Title III of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76), limits the validity of any determination by the Secretary under Section 3112(d)(2)(B) of the USEC Privatization Act to no more than two calendar years subsequent to the determination.

In recent years, DOE has transferred uranium for cleanup services at the Portsmouth Gaseous Diffusion Plant and for down-blending of highly-enriched uranium to low-enriched uranium (LEU). In May 2012, the Secretary determined that transfers of up to 2,400 metric tons of natural uranium equivalent (MTU) per year for cleanup services and up to 400 MTU (contained in LEU) for down-blending would not have an adverse material impact on domestic uranium industries. In May 2014, the Secretary determined that transfers of up to a total of 2,705 MTU per calendar year for these programs will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry (the “2014 Secretarial Determination”).¹ The 2014 determination covers up to 2,055 MTU per year of natural uranium hexafluoride and off-specification non-uranium hexafluoride for cleanup services and up to 650 MTU per year (contained in LEU) for down-blending of highly-enriched uranium.

DOE is planning to issue a new Secretarial Determination that would cover the continued transfer of uranium for cleanup services at the Portsmouth Gaseous Diffusion Plant and for down-blending of highly-enriched uranium to LEU. DOE anticipates that a new Secretarial Determination would be finalized in Spring 2015. DOE is initiating this process by publishing

¹ The 2014 Secretarial Determination and a market analysis the Department used in developing the Determination, are available at <http://www.energy.gov/articles/energy-department-announces-secretarial-determination-no-adverse-material-impact-uranium>.

this RFI. DOE will evaluate comments received in response to this RFI along with other information and analysis.

II. Issues on Which DOE Seeks Comment and Information

This RFI seeks information from interested parties regarding the effects of DOE's planned transfers on the uranium markets and possible consequences for domestic uranium industries. DOE will then use that information to help determine whether its planned transfers would have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry. For all comments, DOE requests that interested parties fully explain any assumptions that underlie their reasoning. DOE also requests that commenters provide underlying data or other information sufficient to allow DOE to review and verify any of the assumptions, calculations or views expressed by the commenters.

DOE specifically invites public comment on the following questions:

- 1) What factors should DOE consider in assessing whether transfers will have adverse material impacts?
- 2) With respect to transfers from DOE's excess uranium inventory in calendar years 2012, 2013, and 2014, what have been the effects of transfers in uranium markets and the consequences for the domestic uranium mining, conversion, and enrichment industries relative to other market factors?
- 3) What market effects and industry consequences could DOE expect from continued transfers at annual rates comparable to the transfers described in the 2014 Secretarial Determination?

- 4) Would transfers at a lower annual rate significantly change these effects, and if so, how?
- 5) Are there actions DOE could take other than altering the annual rate of transfers that would mitigate any negative effects on these industries?
- 6) Are there actions DOE could take with respect to the transfers that would have positive effects on these industries?
- 7) Are there any anticipated changes in these markets that may significantly change how DOE transfers affect the domestic uranium industries?

Although comment is particularly welcome on the issues discussed above, DOE also requests comments on other topics that commenters consider significant for a new Secretarial Determination.

III. Submission of Comments

DOE invites all interested parties to submit, in writing by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, comments and information on matters addressed in this notice. Any information that may be confidential and exempt by law from public disclosure should be submitted as described below. After the close of the comment period, DOE will continue collecting data, conducting analyses, and reviewing the public comments, as needed.

IV. 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.

Issued in Washington, DC, on December 2, 2014

Peter B. Lyons

Assistant Secretary for Nuclear Energy

Office of Nuclear Energy