As a result of this dispute, the SLA requested the Secretary of Education to convene a Federal arbitration panel to hear this complaint. A panel was convened, and a hearing on this matter was held on May 13, 2002.

Arbitration Panel Decision

The arbitration panel heard the following issue: whether the Army’s alleged failure to negotiate with the SLA in good faith for the full food services and dining facility attendant services contract at Ft. Campbell, Kentucky, constituted a violation of the Act (20 U.S.C. 107 et seq.) and the implementing regulations in 34 CFR part 355.

After considering the evidence presented, the majority of the panel ruled that the Act clearly covers all types of food service operations on all Department of Education property. The panel noted that the Army’s provision of coolers for the dining facility at Ft. Campbell did not mandate the exclusion of the SLA from the contract obligation to provide other services.

Further, the panel found that the Army’s issuance of a new solicitation amounted to a limitation on the placement of operation of vending facility services on Federal property as provided by the Act. The panel also noted that the Act states that Federal agencies may give priority to SLAs through direct negotiation whenever a vending facility can be provided at a reasonable cost with food of a high quality, comparable to that currently provided.

Accordingly, the panel ruled that the Army had failed to present any evidence that it complied with the requirements of the Act and the implementing regulations prior to excluding the SLA from its procurement for food services at Ft. Campbell, Kentucky.

Therefore, the panel ruled that the Army should engage in direct negotiations with the SLA for its dining facility attendant services requirement at Ft. Campbell, Kentucky.

One panel member dissented. The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

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DEPARTMENT OF ENERGY

Revision of the Record of Decision for a Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel

AGENCY: Department of Energy, National Nuclear Security Administration.

ACTION: Revision of a record of decision.

SUMMARY: The U.S. Department of Energy (DOE), in consultation with the Department of State, has decided to revise its Record of Decision (ROD) for the Final Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel, issued on May 13, 1996 (61 FR 15602, May 17, 1996). That decision established a U.S. Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel (SNF) (hereinafter referred to as the “Acceptance Policy”), which provides for DOE acceptance of SNF containing uranium enriched in the United States from research reactors located in 41 countries. Under the current Acceptance Policy, only material of U.S. origin that is irradiated and discharged from reactors before May 13, 2003, is eligible for acceptance. Eligible SNF can be accepted through May 12, 2009. DOE has decided to extend the Acceptance Program for an additional 10 years, until May 12, 2016, for irradiation of eligible fuel, and until May 12, 2019, for fuel acceptance. DOE will also accept a small number of SNF elements from a reactor in Australia scheduled to be commissioned after 2005 to a reactor currently eligible for the acceptance program, and analyze in the FRR SNF Environmental Impact Statement (EIS).

With less than 2 years remaining until the expiration date for irradiation of eligible fuel and less than 3 years remaining for fuel acceptance, DOE has received only about 35 percent of the material eligible for return as estimated in the Final Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel (FRR SNF EIS, DOE/EIS-0218, February 1998), on which the ROD was based. This is because some countries with eligible fuel have not used their fuel as rapidly as projected in 1996. Some countries have made alternative spent fuel processing arrangements, and there have been technical delays in the development of new low-enriched uranium (LEU) fuels to enable research reactors to convert from high-enriched uranium (HEU), which can be used to create nuclear weapons.

DOE prepared a Supplement Analysis for the FRR SNF EIS, in accordance with DOE National Environmental Policy Act (NEPA) implementing regulations (10 CFR part 1021). This analysis evaluated the potential health and environmental impacts of extending the program for 5 and 10 years, and of including a small number of additional fuel elements from the Australian Replacement Research Reactor (ARR). The analysis concluded that, although there could be very small increases in health impacts such as from SNF transportation over the extended period, these increases would not significantly change the results reported in the FRR SNF EIS. Accordingly, DOE has determined that a supplement to the FRR SNF EIS is not required.


The Supplement Analysis and related information will be available on DOE’s NBPA web site at http://www nbpa doe gov/nbpa/ and in the DOE Public Reading Room as follows: U.S. Department of Energy, 1000 Independence Avenue, SW, Room 1E-190, Washington, DC 20585, (202) 586-5658. The Public Reading Room is open from 9 a.m. to 4 p.m., Monday to Friday, except Federal holidays.
FOR FURTHER INFORMATION CONTACT: For information concerning the FRR SNF Acceptance Policy and program, contact Ms. Catherine R. Mende-Solm at the address or telephone number provided above. Information on the DOE NEPA process may be requested from Carol M. Borgerston, Director, Office of NEPA Policy and Compliance (EH-42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Ms. Borgerston may be contacted by telephone at (202) 586-4600 or by leaving a message at (800) 472-2756.

SUPPLEMENTARY INFORMATION:

Background

DOE issued a ROD on May 13, 1996 (61 FR 25092, May 17, 1996), based on the FRR SNF EIS (DOE/EIS-0218, February 1996), for which the U.S. Environmental Protection Agency was a cooperating agency. Stating that DOE would accept FRR SNF containing uranium that was enriched in the United States from 107 research reactors located in 41 countries. The ROD further stated that only SNF that is irradiated and discharged from eligible reactors before May 12, 2008, can be accepted. This SNF can be accepted in the United States through May 12, 2009.

From May 1990, when the FRR SNF ROD was issued, to the present, only about 35 percent of the SNF estimated in the FRR SNF EIS to be eligible for the acceptance program has been received. Most of the accepted FRR SNF elements are aluminum-based spent fuel currently stored at the Savannah River Site (SRS). The remaining FRR SNF is fuel from reactors operated in the United States that was ultimately be disposed of at a geologic repository. As of November 2004, 30 shipments of FRR SNF have been received in the United States. Of these 30 shipments, 19 were received at the Concord Naval Weapons Station in California, and was transported to INEEL. Two shipments entered Everglades, Florida, and were sent to SRS. The remaining 27 shipments arrived at the Charleston Naval Weapons Station in South Carolina, with 5 of these shipments going to INEEL and 22 shipments going to SRS. No accidents involving FRR SNF have occurred, and no shipment received under the Acceptance Program has resulted in a release of radioactive material from a cask containing FRR SNF.

Approximately 2 years remain until the Acceptance Policy’s expiration date for irradiation of eligible fuel and 5 years remain for acceptance of eligible FRR SNF. DOE has received only about 35 percent of the total SNF elements estimated in 1996, because some countries with eligible fuel have not received their fuel as rapidly as projected in 1996. Some countries have made alternative spent fuel processing arrangements, and there have been technical delays in the development of new low-enriched uranium (LEU) fuel to enable research reactors to convert from high-enriched uranium (HEU), which can be used to create nuclear weapons.

The current Acceptance Policy applies only to reactors that were operational in May 1996, when the Policy was established. Although the High Flux Australian Reactor (HIFAR) has been operational since 1958 and is eligible to participate in the acceptance program, this reactor has been scheduled for decommissioning in 2006. The HIFAR is expected to have used all of its fuel by that time. Australia’s Research Reactor Replacement Reactor (RARR), scheduled for commissioning in 2005, will assume the HIFAR’s research and medical isotopes activities. In effect, the RARR represents a conversion from the HEU used in the HIFAR to a new type of LEU fuel that can be processed by non-U.S. facilities. The delays in developing new fuel will mean, however, that the RARR must use a currently available type of LEU fuel until approximately 2012. It is expected that SNF resulting from the irradiation of the currently available LEU fuel would need be managed in the United States and would add a small number of fuel elements, approximately 96 elements, to the 1996 total estimate of approximately 22,700 elements. All of the American SNF would be managed at SRS until disposal is available at a geologic repository.

Proposed Action

DOE and the U.S. Department of State propose to revise the FRR SNF Acceptance Program by:

- Extending the expiration date for irradiation of eligible spent fuel for 10 years, from May 12, 2006, to May 12, 2016;
- Extending the acceptance date for eligible spent fuel 10 years, from May 12, 2009, to May 12, 2019; and
- Extending eligibility to Australia’s RARR for participation in the Acceptance Program.

The amount of potentially eligible SNF would remain at approximately 20 metric tonnes of heavy metal total.

Target material (fuel for isotope production such as Technetium-99) and damaged spent fuel also received under the Acceptance Program currently can be treated in H-Canyon at SRS. However, current plans call for H-Canyon facilities to be maintained in operable condition through 2010 before beginning a review of the facility. While target material and damaged SNF can be accepted under the current Acceptance Policy, the material would not be accepted if H-Canyon is unavailable after 2010 to prepare the target material and damaged fuel for disposal. If SNF were to be damaged once it arrived in the United States and H-Canyon were not available, DOE would repackage or otherwise prepare the fuel and safely store it pending disposal.

NEPA Review

DOE prepared a Supplemental Analysis in accordance with DOE NEPA implementing regulations (10 CFR part 1021) to determine whether a supplement to the FRR SNF EIS is needed for the proposed action. The analysis evaluated the potential material and environmental impacts of extending the program for 5 and 10 years, and of including the small number of additional fuel elements from the RARR.

The analysis concluded that although there could be very small increases in health impacts such as from SNF transportation over the extended period, these increases would not significantly change the results reported in the FRR SNF EIS. Accordingly, DOE has determined that there are no substantial changes to the proposed action analyzed in the FRR SNF EIS or significant new circumstances or information relevant to environmental concerns resulting from the extension of the Acceptance Policy. As referenced in the Supplement Analysis, the onsite management of SNF at INEEL and SRS was addressed in the Programmatic SNF and INEEL Final EIS (DOE/EIS-0203, Volumes 1 and 2, 1985) and the Savannah River Site Spent Fuel
DATES: Thursday, January 20, 2005—5:30 p.m.—9:30 p.m.

ADDRESSES: 111 Memorial Drive.
           Barkley Centre, Paducah, Kentucky
           42001.

FOR FURTHER INFORMATION CONTACT:
William E. Murphy, Deputy Designated Federal Official (DDFO), Department of Energy Portsmouth/Paducah Project Office, 1017 Majestic Drive, Suite 200, Lexington, Kentucky 40513, (859) 219-4001.

SUPPLEMENTARY INFORMATION:
Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda
5:30 p.m.  Informal Discussion
6 p.m.  Call to Order
   Introduction
   Review of Agenda
   Approval of November Minutes
6:05 p.m.  DDFO’s Comments
6:25 p.m.  Federal Coordinator Comments
6:30 p.m.  Ex-Officio Comments
6:40 p.m.  Public Comments and Questions
7:30 p.m.  Task Forces/Presentations
   Waste Disposition Task Force
   — Burial Ground Operable Unit
   Water Quality Task Force
   Long Range Strategy/Stewardship Task Force
   Annual Report
   Site Management Plan Update
   Waste Management Outreach Task Force
7 p.m.  Public Comments and Questions
8 p.m.  Break
8:15 p.m.  Administrative Issues
   Review of Work Plan
   Review of Next Agenda
8:20 p.m.  Review of Action Items
8:25 p.m.  Subcommittee Reports
   Executive Committee
8:40 p.m.  Final Comments
9:30 p.m.  Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact David Dollins at the address listed below or by telephone at (270) 441-6819. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda.

The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m. Monday—Friday, except Federal holidays. Minutes will also be available at the Department of Energy’s Environmental Information Center and Reading Room at 113 Memorial Drive, Barkley Centre, Paducah, Kentucky, between 8 a.m. and 5 p.m., Monday through Friday or by writing to David Dollins, Department of Energy, Paducah Site Office, Post Office Box 1140, MS-103, Paducah, Kentucky 42001 or by calling him at (270) 441-6819.

Issued at Washington, DC, on November 24, 2004.

Rachel M. Samuel,
Deputy Advisory Committee Management Officer

[FR Doc. 04-28469 Filed 11-30-04; 8:45 am]
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DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

[Docket No. CP05-18-000]

Equitrans, L.P., Notice of Proceeding


Take notice that on November 18, 2004, in an order issued in Docket Nos. RP94-97-001, et al., the Commission established a separate proceeding to conduct an inquiry in response to assertions by Equitrans, L.P. (Equitrans), 100 Allegheny Center, Pittsburgh, PA 15272, that a significant portion of the storage facilities’ cushion gas has been lost due to migration of that gas. The proceeding in Docket No. CP05-18-000, initiated by the Commission pursuant to its authority under section 5, 7, 8 and 18 of the Natural Gas Act (NGA), will explore material issues regarding Equitrans’ loss of the cushion gas, as described in more detail herein.

In the rate proceeding in Docket Nos. RP94-97-001, et al., Equitrans explained its intention to buy and inject into storage approximately 9,600,000 Dth of cushion gas to replace lost cushion gas. Equitrans proposed in the rate proceeding to reflect the projected purchase cost of this cushion gas of approximately $49.1 million in its rates.