

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 395.

After considering the evidence presented, the majority of the panel ruled that the Act clearly covers all types of food service operations including military troop dining facilities. The panel stated that the Army's provision of cooks for the dining facility at Ft. Campbell did not mandate the exclusion of the SLA from the opportunity to provide other services.

Further, the panel found that the Army's issuance of a new solicitation amounted to a limitation on the placement or 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 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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Dated: November 24, 2004.

**Troy R. Justesen,**

*Acting Deputy Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. E4-3400 Filed 11-30-04; 8:45 am]

BILLING CODE 4000-01-P

#### 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 15902, May 17, 1996). That decision established the U. S. Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor (FRR) 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, 2006, 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 replace a reactor currently eligible for the acceptance program, and analyzed 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 5 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 1996), 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 (ARRR). 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.

**ADDRESSES:** For copies of the Supplement Analysis, or for further information about the FRR SNF Acceptance Program, contact: Catherine R. Mendelsohn, Acting Director, Office of Global Nuclear Material Threat Reduction, Office of Global Threat Reduction, National Nuclear Security Administration, U.S. Department of Energy, NA-21, 1000 Independence Avenue, SW., Washington DC 20585, (202) 586-0275, fax: (202) 586-6789, [kasia.mendelsohn@hq.doe.gov](mailto:kasia.mendelsohn@hq.doe.gov).

The Supplement Analysis and related information will be available on DOE's NEPA web site at <http://www.eh.doe.gov/nepa/> 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) 586-5955. 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. Mendelsohn at the address or telephone number provided above. Information on the DOE NEPA process may be requested from: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH-42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Ms. Borgstrom 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. Department of State 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, 2006, can be accepted. This SNF can be accepted in the United States through May 12, 2009.

From May 1996, 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 Training, Research, Isotope, General Atomics spent fuel stored at the Idaho National Engineering and Environmental Laboratory (INEEL). All of the FRR SNF will 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, 1 shipment arrived at the Concord Naval Weapons Station in California, and was transported to INEEL. Two shipments entered overland through Canada 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 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.

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 since 1997 for decommissioning in 2006. The HIFAR is expected to have used all of its fuel by that time. Australia's Research Replacement Reactor (RRR), scheduled for commissioning in 2005, will assume the HIFAR research and medical isotope activities. In effect, the RRR 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 this new fuel will mean, however, that the RRR 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 to 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 Australian SNF would be managed at SRS until disposal is available at a geologic repository.

**Purpose and Need for Action**

Reducing the threat posed by the proliferation of nuclear weapons is a foremost goal of the United States. To continue to meet DOE's objective of reducing, and eventually eliminating, HEU of U.S. origin from civil commerce worldwide, DOE needs to extend its FRR SNF Acceptance Policy to allow additional time for eligible material to be returned to the United States and to allow SNF elements from an Australian reactor commissioned after 2005 to replace a reactor currently eligible for the acceptance program and analyzed in the original FRR SNF EIS.

**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 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 RRR 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 pending 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 Supplement 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 health and environmental impacts of extending the program for 5 and 10 years, and of including the small number of additional fuel elements from the RRR. 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, 1995) and the Savannah River Site Spent Fuel

Management Final EIS (DOE/EIS-0279, 2000). The onsite impacts identified for those sites would not be changed by the extension of the Acceptance Policy. Transportation impacts from INEEL and SRS to the geologic repository as analyzed in the Final EIS for a *Geologic Repository for the Disposal of Spent Nuclear Fuel and High-level Radioactive Waste at Yucca Mountain, Nye, County, Nevada*, (DOE/EIS-250, 2002) are also unchanged by the extension.

### Decision

DOE has decided to extend the FRR SNF Acceptance Policy for an additional 10 years beyond its current expiration, until May 12, 2016, for irradiation of eligible fuel, and until May 12, 2019, for fuel acceptance. DOE has also decided to include the Australian RRR as a reactor eligible to participate in the acceptance program. For the small amount of RRR fuel that would be added to 1996 estimates, DOE will continue limitations on shipment cask curie activity and will ensure that the upper limit estimate for the source term assumed in the FRR SNF EIS accident analysis will not be exceeded.

DOE's decision furthers the nonproliferation objectives of the United States. The extension of the Acceptance Policy is expected to provide sufficient time for reactors to complete their planned shipments, to complete development, testing, qualification and fabrication of new LEU fuels which could be used by the RRR and other reactors, and to provide time for reactors to convert to the new LEU fuels or make alternative fuel management arrangements.

Issued in Washington, DC on November 22, 2004.

**Linton F. Brooks,**

*Under Secretary and Administrator, National Nuclear Security Administration.*

[FR Doc. 04-26470 Filed 11-30-04; 8:45 am]

BILLING CODE 6450-01-P

### DEPARTMENT OF ENERGY

#### Environmental Management Site-Specific Advisory Board, Paducah

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

**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. Murphie, Deputy Designated Federal Officer (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
- 7:50 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 Community 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 Officer 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 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m., on Monday thru Friday or by writing to David Dollins, Department of Energy, Paducah Site Office, Post Office Box 1410, 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. 04-26469 Filed 11-30-04; 8:45 am]

BILLING CODE 6450-01-P

### DEPARTMENT OF ENERGY

#### Federal Energy Regulatory Commission

[Docket No. CP05-18-000]

#### Equitrans, L.P.; Notice of Proceeding

November 23, 2004.

Take notice that on November 18, 2004, in an order issued in Docket Nos. RP04-97-001, *et al.*, the Commission established a separate proceeding to conduct an inquiry in response to assertions by Equitrans, L.P. (Equitrans), 100 Allegany Center, Pittsburgh, PA 15275, that a significant portion of its 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 16 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. RP04-97-001, *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.