

notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Frederick J. Hebdon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, and to General Counsel, Tennessee Valley Authority, ET 10H, 400 West Summit Hill Drive, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWSA), 42 U.S.C. 10154. Under section 134 of the NWSA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues

that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWSA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41670, October 15, 1985) to 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within 10 days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, Subpart G, and 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in adjudicatory hearing. If no party to the proceedings requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G, apply.

For further details with respect to this action, see the application for amendment dated, October 23, 1996, as supplemented on December 11, 1996, January 31, February 10 and 24 and March 11, 1997 which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee.

Dated at Rockville, Maryland, this 27th day of March 1997.

For the Nuclear Regulatory Commission.

**Robert E. Martin,**

*Sr. Project Manager, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 97-8401 Filed 4-1-97; 8:45 am]

BILLING CODE 7590-01-P

[Docket No. 72-9]

**Department of Energy Issuance of Environmental Assessment and Finding of No Significant Impact Regarding The Transfer of The Materials License SNM-2504 and Subsequent License Amendment For The Fort St. Vrain Independent Spent Fuel Storage Installation From The Public Service Company of Colorado to The U.S. Department of Energy**

The Nuclear Regulatory Commission is considering the issuance of an order approving an application from the U.S. Department of Energy, Idaho Operations Office (the applicant or DOE-ID) dated December 17, 1996, as supplemented February 4, 5, and 18, and March 12 and 13, 1997, for the transfer of Materials License SNM-2504 and subsequent license amendment, under the provisions of 10 CFR Part 72. In its application, DOE-ID included the "Environmental Report for the Fort St. Vrain Independent Spent Fuel Storage Installation" (December 1996).

**Environmental Assessment**

*Identification of the Proposed Action*

The applicant is seeking NRC approval to take possession of spent nuclear fuel and other radioactive materials associated with spent nuclear fuel storage presently in the possession of the Public Service Company of Colorado (PSCo) at its Fort St. Vrain (FSV) independent spent fuel storage installation (ISFSI) located in Weld County, Colorado, and to own and operate the FSV ISFSI. The transfer of an ISFSI license is subject to NRC approval under 10 CFR 72.50, "Transfer of License." Pursuant to the provisions of 10 CFR Part 72, the term of the license for the ISFSI would remain as is currently licensed, and the license would expire on November 30, 2011. If the application for transfer is approved, the Commission will issue an order consenting to the transfer. The NRC is also considering an amendment to the materials license to reflect DOE-ID as the new licensee for the FSV ISFSI and the addition of revised Appendices A, B, and C to the license.

After the transfer of the license and subsequent license amendment, DOE will be responsible for all activities at the FSV ISFSI, including, but not limited to, operations, maintenance, surveillance, emergency response, environmental and radiological monitoring, training, and security.

#### *Need for the Proposed Action*

DOE-ID applied for a transfer of Materials License SNM-2504 from PSCo to DOE. Materials License SNM-2504 authorizes PSCo to receive, handle, possess, and store spent nuclear fuel elements from the FSV High-Temperature Gas-Cooled Reactor (HTGR) in the FSV ISFSI. The authorized place of use is the FSV ISFSI located on a tract of land adjacent to the former FSV Nuclear Generating Station, located in Weld County, Colorado, near the town of Platteville, Colorado.

The FSV HTGR was built and operated as an advanced reactor concept with cooperation between U.S. Atomic Energy Commission (AEC), Gulf General Atomic, and PSCo. In 1980, DOE agreed to take title to eight fuel segments from the FSV HTGR. DOE also agreed that, in the sole discretion of DOE and under certain conditions, DOE would accept additional spent fuel elements without further adjustment to the contract. Fuel segments 1 through 3 were received by Idaho National Engineering Laboratory (INEL): segment 1 in 1980; segment 2 in 1982; and segment 3 in 1984 and 1986. (Note: Recently, the laboratory's name was changed to Idaho National Engineering and Environmental Laboratory or INEEL. For the purposes of this assessment, the term INEL will be used rather than INEEL.)

Due to operational difficulties, the reactor was permanently shut down in August 1989. PSCo decided to decontaminate and decommission the reactor facility and terminate the 10 CFR Part 50 license. PSCo successfully negotiated with DOE for INEL to receive the remaining FSV fuel. However, after three shipments of the FSV spent fuel to INEL, the Governor of the State of Idaho prohibited DOE from receiving any subsequent shipments of the FSV fuel. As interim storage for the spent nuclear fuel, PSCo selected a modular vault dry storage system (MVDSS) designed by GEC Alsthom Engineering Systems, LTD., and licensed by Foster Wheeler Energy Corporation, Energy Applications Division (formerly Foster Wheeler Energy Applications, Inc.). On November 4, 1991, NRC issued to PSCo a 20-year license to receive, possess, store, and transfer FSV spent nuclear fuel to the ISFSI. PSCo began loading the ISFSI with fuel on December 26,

1991, and completed loading on June 10, 1992.

In December 1995, DOE notified the NRC of its intent to purchase the FSV ISFSI from PSCo, take title to the spent fuel, and transfer Materials License SNM-2504 from PSCo to DOE. On February 9, 1996, DOE and PSCo signed an Agreement in Principle stating that DOE took immediate title to the spent nuclear fuel stored in the FSV ISFSI and that PSCo would manage the ISFSI in accordance with SNM-2504, at DOE expense, until the license could be transferred from PSCo to DOE.

Therefore, DOE currently has title to the FSV spent fuel stored in the ISFSI. DOE has agreed to purchase the ISFSI from PSCo and assume responsibility for the operation (including in-situ receipt of the spent nuclear fuel and high-level waste contents, storage, handling, retrieval, and transfer, thereof), maintenance, and decommissioning of the FSV ISFSI. Transferring Materials License SNM-2504 from PSCo to DOE is needed so that the responsibility for the continued, safe operation of the FSV ISFSI lies with DOE as owner of the fuel and ISFSI.

#### *Environmental Impacts of the Proposed Action*

The environmental impacts to the FSV site have been analyzed in previous evaluations. In August 1972, the AEC issued the "Final Environmental Statement Related to the Operation of Fort St. Vrain Nuclear Generating Station." In February 1991, the NRC issued the Environmental Assessment Related to the Construction and Operation of the Fort St. Vrain Independent Spent Fuel Storage Installation," which specifically evaluated the environmental impacts related to the construction and operation of the FSV ISFSI. This environmental assessment concluded that the FSV ISFSI would not significantly affect the quality of the human environment. Moreover, in November 1992, the "Environmental Assessment Regarding Order Authorizing Decommissioning of Fort St. Vrain Nuclear Generating Station," was issued which covered decommissioning activities at the facility, and this assessment was issued after the Materials License SNM-2504 was granted (November 4, 1991).

The proposed action is administrative and procedural in nature, and as such, there are no associated environmental impacts beyond those previously considered. To ensure that the environmental monitoring program is acceptable, DOE-ID's proposed environmental monitoring program and

implementation of that program will be assessed and documented in the NRC staff's safety evaluation report in accordance with 10 CFR 72.44(d)(2). DOE will need to demonstrate that its program is comparable to the PSCo program.

The proposed action will not increase the probability or consequences of accidents, will not increase the possibility of a different type of accident, and will not decrease the margin of safety. There are no changes being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Moreover, it does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

#### *Alternatives to the Proposed Action*

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

With the alternative of no action or denial of the application, PSCo would retain ownership of Materials License SNM-2504 and be responsible for the continued operation and maintenance of the ISFSI while DOE has title to the fuel. This alternative gives one organization responsibility under the license for the radioactive material owned by another organization. Therefore, the proposed action is preferable because the organization that owns the spent nuclear fuel would have responsibility under license for its possession.

#### *Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the "Final Environmental Impact Statement Related to the Operation of Fort St. Vrain Nuclear Generating Station" (August 1972), and the "Environmental Assessment Related to the Construction and Operation of the Fort St. Vrain Independent Spent Fuel Storage Installation" (February 1991).

*List of Agencies and Persons Consulted*

The Director of the Laboratory and Radiation Services Division of the Colorado Department of Public Health and Environment was consulted about the EA for the proposed action. This organization had no comments on the proposed action.

During a public meeting held on February 20, 1997, the DOE and PSCo staffs were consulted regarding the environmental monitoring program.

References used in preparation of the EA:

1. DOE-ID License Transfer Application, including the Decommissioning Plan, Emergency Plan, Environmental Report, Quality Assurance Requirements and Description, and Technical Specifications, dated December 17, 1996, as supplemented February 4, 5, and 18, and March 12 and 13, 1997.
2. NRC, "Environmental Assessment Regarding Order Authorizing Decommissioning of Fort St. Vrain Nuclear Generating Station," dated November 1992.
3. NRC, "Environmental Assessment Related to the Construction and Operation of the Fort St. Vrain Independent Spent Fuel Storage Installation," dated February 1991.
4. AEC, "Final Environmental Statement Related to the Operation of Fort St. Vrain Nuclear Generating Station," dated August 1972.
5. NRC, 10 CFR Part 20, "Standards for Protection Against Radiation."
6. NRC, 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions."

**Finding of No Significant Impact**

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. The staff has determined that the proposed action of transferring Materials License SNM-2504 from PSCo to DOE and the subsequent license amendment will not significantly impact the quality of the environment. Therefore, an environmental impact statement is not warranted, and pursuant to 10 CFR 51.31, a Finding of No Significant Impact is appropriate.

Based upon the EA, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an EIS for the proposed action.

For further details with respect to this action, see the application dated

December 17, 1996, as supplemented February 4, 5, and 18, and March 12 and 13, 1997, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and at the Local Public Document Room at the Weld Library District, Lincoln Park Branch, 919 7th Street, Greeley, Colorado 80631.

Dated at Rockville, Maryland, this 26th day of March 1997.

For the U.S. Nuclear Regulatory Commission.

**William F. Kane,**

*Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 97-8402 Filed 4-1-97; 8:45 am]

BILLING CODE 7590-01-P

**Advisory Committee on Nuclear Waste; Notice of Meeting**

The Advisory Committee on Nuclear Waste (ACNW) will hold its 91st meeting on April 22-24, 1997, in Room T-2B3, at 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, April 22, 1997—8:30 A.M.

until 6:00 P.M.

Wednesday, April 23, 1997—8:30 A.M.

until 6:00 P.M.

Thursday, April 24, 1997—8:30 A.M.

until 4:00 P.M.

During this meeting, the Committee plans to consider the following:

A. *Igneous Activity*—The Committee will review the NRC staff and DOE investigations of this potentially adverse condition to the acceptability of the proposed high-level waste repository at Yucca Mountain, Nevada. The review will focus on the status of results and paths toward resolution from these studies of potential volcanism.

B. *Planning for Commission Meeting*—The Committee will prepare for its next meeting with the Commission currently scheduled for May 20, 1997 at 2:00 p.m.

C. *Convention on the Safety of Radioactive Waste Management*—The Committee will hear a report from the NRC's Division of Waste Management on this international treaty which is under consideration.

D. *Screening Methodology for Assessing Prior Land Burials*—The Committee will review the staff's final branch technical position on this screening methodology including its disposition of public comments received.

E. *State of Nevada*—The Committee will hear from a representative of the

State of Nevada who will discuss the Nevada perspective as to the difference between DOE's viability assessment and the site suitability determinations for the proposed Yucca Mountain repository. Comments will also be offered on the proposed amendments to DOE's 10 CFR Part 960. The amendments would focus Part 960 as to its use in evaluating the suitability of the Yucca Mountain site for development as a repository.

F. *Meeting with the Director, the Division of Waste Management*—The Committee will hold a current events discussion with the Director.

G. *Defense-in-Depth*—The Committee will hear presentations from representatives of industry that will address the topic of subsystem requirements in 10 CFR 60 as a means on implementing the defense-in-depth concept.

H. *Preparation of ACNW Reports*—The Committee will discuss potential reports, including Igneous Activity related to the proposed Yucca Mountain Repository, a Branch Technical Position on a Screening Methodology for Assessing Prior Land Burials, and other topics discussed during the meeting as the need arises.

I. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

J. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 8, 1996 (61 FR 52814). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected