

January 18, 2002

Mr. J. Morris Brown
Vice President, Operations
U.S. Enrichment Corporation
2 Democracy Center
6903 Rockledge Drive
Bethesda, MD 20817

SUBJECT: LICENSING REQUEST FOR IMPORT OF DEPLETED URANIUM
HEXAFLUORIDE (TAC L32183)

Dear Mr. Brown,

This is in response to your letter dated October 23, 2001, in which you asked the U.S. Nuclear Regulatory Commission (NRC) to confirm the licensing requirements applicable to the import of depleted uranium hexafluoride (DUF_6). Specifically, you asked the NRC to confirm the following:

“1. DUF_6 can be imported under specific license if the review criteria in 10 CFR 110.43 are satisfied.”

“2. A designation of DUF_6 as radioactive waste for the purpose of obtaining an import Specific License will not limit the use of imported or other DUF_6 to disposal only.”

With respect to question 1, the review criteria in 10 CFR 110.43 (a-d) must be satisfied before an import license can be issued. Section 110.43(d) requires that “an appropriate facility has agreed to accept the waste for management or disposal.” In past discussions on this subject, the United States Enrichment Corporation (USEC) has stated that it would consider the Portsmouth or Paducah facility to meet the definition of an “appropriate facility” in paragraph (d) of 110.43. Since USEC is not disposing the DUF_6 at its facilities, USEC will need to provide an acceptable approach to manage the waste for disposal including the necessary financial assurance to ensure adequate funding for decommissioning.

To achieve this requirement, the staff will require an amendment to USEC’s gaseous diffusion plant (GDP) certificates which will need to include, among other things, a description of the disposal approach with the necessary financial assurance before authorizing importation of the material. An acceptable disposal approach could consist of an official agreement with the U.S. Department of Energy (DOE) that it is willing to accept and dispose of any DUF_6 which is imported under the specific license or by providing a copy of a contract with an authorized low-level waste burial site for disposal of the material within some future date. See Statements of Consideration for the Final Rule: Waste and Export of Radioactive Waste, 60 FR 37586 (July 21, 1995). If a contract with an authorized low-level waste burial site is pursued, then a determination from the appropriate Low-Level Waste Compact concerning the acceptability of importing the waste to a USEC facility will also be needed. Changes to the applicable GDP certificate may also be needed to provide for the separate management and control of this imported DUF_6 .

Finally, an import application must also meet the requirements of 10 CFR 110.32. USEC will thus have to demonstrate that it has addressed the disposal issue with DOE or with a disposal licensee and the applicable Compact in the import application.

With respect to question 2, for purposes of the issuance of a specific license to import DUF_6 , this material would be classified as waste since there is not a clear foreseeable use. Requirements would be imposed to ensure that such material would be properly disposed in the future so that the disposal of the DUF_6 would not become an unfunded public responsibility. The designation of DUF_6 as radioactive waste for the purpose of obtaining an import Specific License will not necessarily limit the use of the imported DUF_6 to disposal. However, only if USEC found a useful purpose for the material consistent with NRC requirements can the designation of the material as waste be changed.

It should also be noted that import decisions are made on a case-by-case basis. A favorable import licensing decision is limited to the specific circumstances of the import request being reviewed and does not indicate that NRC has made a determination regarding future requests for importing DUF_6 .

If you have any questions regarding this issue, please contact Dan Martin of my staff at (301) 415-7254.

Sincerely,

/RA/

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Docket: 70-7001
Certificate: GDP-1

cc: Mr. Steven A. Toelle, USEC-Headquarters
Mr. Randall M. DeVault, DOE-Oak Ridge
Mr. Russell Starkey, Paducah

Finally, an import application must also meet the requirements of 10 CFR 110.32. USEC will thus have to demonstrate that it has addressed the disposal issue with DOE or with a disposal licensee and the applicable Compact in the import application.

With respect to question 2, for purposes of the issuance of a specific license to import DUF₆, this material would be classified as waste sine there is not a clear foreseeable use. Requirements would be imposed to ensure that such material would be properly disposed in the future so that the disposal of the DUF₆ would not become an unfunded public responsibility. However, the designation of DUF₆ as radioactive waste for the purpose of obtaining an import Specific License will not limit the use of the imported DUF₆ to disposal only if USEC found a useful purpose for the material consistent with NRC requirements. Thus, the designation of the material as waste can be changed.

It should also be noted that import decisions are made on a case-by-case basis. A favorable import licensing decision is limited to the specific circumstances of the import request being reviewed and does not indicate that NRC has made a determination regarding all future requests for importing DUF₆.

If you have any questions regarding this issue, please contact Dan Martin of my staff at (301) 415-7254.

Sincerely,

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Docket: 70-7001
Certificate: GDP-1

cc: Mr. Steven A. Toelle, USEC-Headquarters
Mr. Randall M. DeVault, DOE-Oak Ridge
Mr. Russell Starkey, Paducah

Distribution:(Control No. 880S)

Docket 70-7001 ADAMS PUBLIC SPB r/f RWescott DMartin
PHiland, RIII MPhilips, RIII BBartlett, RIII MThomas, RIII MRaddatz Jowens

ADAMS Accession No:**ML020140053**

C:\Program Files\Adobe\Acrobat 4.0\PDF Output\NRC resp to USEC DU issue.wpd *See
previous concurrence

Office	FSPB		FSPB	E	OGC		DWM		OIP		FSPB	
Name	Hastwood*dw		DAHoadley *		Jlieberman *		JKennedy*		MPetersen*		JGiitter *	
Date	11/ 15 / 01		11/ 16 / 01		11/15 / 01		11 / 16/ 01		11/30 /01		11/15/01	
Office	FSPB		FCSS		NMSS							
Name	ELeeds *		MWeber*		MVirgilio							
Date	1/ 11 / 02		1/ 11 /02		1/ 18 / 02							