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Chief, Rules and Directives Branch  
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Office of Administration  
U.S. Nuclear Regulatory Commission  
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**Comments on the Preliminary Impact Assessment of the Nuclear Industry Consolidation on the NRC (66 FR 34293)**

The United States Enrichment Corporation (USEC) appreciates the opportunity to provide comments regarding the preliminary impact assessment of the ongoing nuclear industry consolidation on the Nuclear Regulatory Commission (NRC). The NRC requested public comments on this subject in Federal Register Notice Volume 66, Number 124, dated June 27, 2001. The NRC is interested in determining whether its current regulations, policies, processes, guidance, or organizational structure need to change in order for the agency to continue to meet its public health and safety goals in view of the industry consolidation. The NRC divided the nuclear industry consolidation into eight categories. Category 6 is entitled "Fuel Cycle Facilities." USEC's comments and suggestions are directed and limited to this category.

USEC believes that it is important to note that, in addition to protecting public health and safety from radiological hazards, the NRC is obliged to ensure that its activities also provide for "the common defense and security." (cf., 10 CFR 40.32(d), 70.31(e), and 76.1(a)). The provision to ensure that commercial uses of radioactive materials provide for national defense and security is no less binding and as important as the mandate to protect public health and safety. We also believe that the defense and security provision in the regulation is broader than the limited application in 10 CFR Parts 75 and 95, which specify the requirements for safeguarding nuclear material, providing for facility security clearance, and safeguarding of national security information and restricted data. Indeed, the NRC noted in the Federal Register Notice that "complete reliance on foreign sources for nuclear fuel may need to be addressed" and "may have national security implications." USEC agrees.

It is in our national interest to take steps to preclude complete reliance on foreign sources for nuclear fuel. Such an outcome would be inherently unstable and unpredictable. Until now, a broader application of the common defense and security provision in the regulations has been largely unnecessary in the conduct of NRC activities because, as the principal developer of nuclear energy, the United States has benefited for decades from a strong and vibrant indigenous nuclear industry.

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However, there are indications that the nuclear industry consolidation may precede in a manner that could undermine the integrity of the domestic nuclear fuel supply. As a consequence, USEC believes that changes in current NRC policies, processes and guidance are warranted to ensure that the national defense and security goals in the regulations are satisfied.

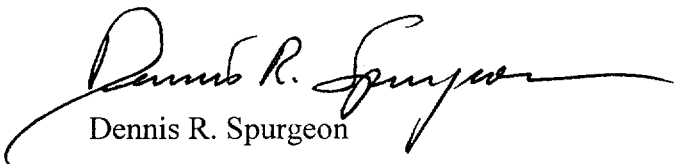
While there are many ways that the NRC could adjust its activities to continue to provide for the common defense and security, USEC offers the following four suggestions for consideration:

- 1. Assign a high priority to licensing activities involving modernization and/or expansion of domestic fuel cycle facilities** – The Commission has recently agreed to support a proposal by Commissioner Nils Diaz that the NRC staff assign a “high priority” to license applications for reactor power uprates in light of the nation’s energy needs. It is my understanding that the NRC staff has been directed to *“take steps to better understand licensees intentions in this area in order to facilitate planning.”* The increased use of nuclear power as a result of power uprates and potentially new reactors will require more nuclear fuel. A recent survey indicated that the NRC may receive as many as 46 uprate amendments over the next five years, which would result in an increase capacity of 1,600 megawatts. This translates to an additional demand for approximately 1.6 million SWU of uranium enrichment. An expansion of the domestic nuclear fuel infrastructure is a necessary adjunct to increases in reactor power and new reactors. This expansion of capacity provides an opportunity to introduce modern production technology into fuel cycle facilities. Consequently, as fuel cycle licensees submit license applications to expand and modernize their facilities, a commensurate high priority should be placed on these applications.
- 2. Use international benchmarking to ensure a balanced regulatory environment for fuel cycle facilities** – Domestic nuclear reactors provide their product to domestic markets, and reactors are also regulated to essentially a common set of domestic standards. Partially as a result of this commonality, the consolidation of the domestic nuclear industry offers a certain economy of scale in the management of the regulatory interface. By contrast, fuel cycle facilities provide their products to international markets and compete with foreign facilities that are regulated to different sets of regulatory standards. As the NRC notes in the Federal Register Notice, *“BNFL and Cogema have been aggressively acquiring fuel cycle operations around the world, which would indicate that they intend to become the predominant companies in the marketplace.”* In view of this foreign challenge, comparatively stringent domestic regulatory requirements may adversely impact the ability of domestic fuel cycle facilities to compete internationally and may unwittingly undermine the sustenance of a strong domestic nuclear fuel infrastructure. Regulations require licensees to expend resources and sometimes delay the implementation of changes in operations to respond to new market requirements. Consequently, regulations do affect market competitiveness. USEC believes that a more balanced regulatory environment could be achieved by eliminating requirements that do not adversely affect safety. We encourage the NRC to benchmark its regulation of domestic fuel cycle facilities with the regulations applicable to similar facilities overseas.

3. **Provide guidance to eliminate restrictions to fuel cycle facility licenses/certificates that do not have a regulatory or safety basis** – As discussed above, the sustenance of a strong domestic nuclear fuel infrastructure depends, in part, on a regulatory environment that does not unnecessarily burden or delay the implementation of operational changes. Nuclear material licenses and certificates place limits on the types and amounts of nuclear material a licensee or certificate holder can possess and on the uses of that material. Recently, USEC has had discussions with the NRC indicating that the agency may be seeking to further restrict material licenses and certificates to only those activities present or contemplated at the time of the issuance of the certificate or license. Such a stricture represents an undue burden to material licensees and certificate holders without a commensurate safety benefit. USEC suggests that guidance be provided to preclude restrictions to fuel cycle facilities that do not have a regulatory or safety basis.
  
4. **Reflect the savings realized in the consolidation of fuel cycle facilities** – The NRC notes that since 1991 it has been required by the Congress to recover approximately 100 percent of its budget by assessing fees from the regulated community. The consolidation in the industry has reduced the number of active fuel cycle facilities. This reduction has not been mirrored at the NRC. Today, there are fewer licensees and certificate holders paying higher fees. For example, on May 11, 2001, USEC ceased enrichment operations at the Portsmouth Gaseous Diffusion Plant in Ohio and consolidated its enrichment operations at the Paducah Gaseous Diffusion Plant in Kentucky. Despite the fact that the Portsmouth cascade is in “cold standby,” a safe, stable configuration, and that over the next several months the Portsmouth workforce will have been reduced by approximately 435 (or about 25%), the annual fee for this facility is the same as Paducah. Further, the annual fees for both plants have increased from \$1.12M in Fiscal Year 2000 to \$1.15M in Fiscal Year 2001. USEC believes that certain NRC reduction in fees through the realization of efficiencies and synergies is warranted based on corresponding changes in the industry.

Finally, the June 27<sup>th</sup> Federal Register Notice indicated that a public workshop would be held in the October/November 2001 timeframe to discuss the regulatory impact associated with industry consolidation. USEC is committed to be an active and constructive participant during the consolidation and restructuring of the nuclear industry. Consequently, USEC plans to attend the NRC workshop and is further willing to participate more actively in the workshop (for example, as a panelist in a breakout session that features fuel cycle facility issues). Should you have any questions or require additional information, please contact Mr. Steven A. Toelle, Director, Nuclear Regulatory Affairs, at (301) 564-3250.

Sincerely,



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