

## **POLICY ISSUE NOTATION VOTE**

October 31, 2003

SECY-03-0189

FOR: The Commissioners

FROM: William D. Travers  
Executive Director for Operations

SUBJECT: REPORT TO CONGRESS ON THE HEALTH, SAFETY, AND  
ENVIRONMENTAL CONDITIONS AT THE GASEOUS  
DIFFUSION PLANTS

### PURPOSE:

This paper seeks Commission approval of the third "Report to Congress on the Gaseous Diffusion Plants Located Near Paducah, Kentucky, and Portsmouth, Ohio" (hereafter, Report to Congress).

### BACKGROUND:

The Energy Policy Act of 1992 amended the Atomic Energy Act of 1954 (AEA) by adding a new Title II (Sections 1201-1805), establishing the United States Enrichment Corporation (USEC). The purpose of this corporation includes operation of the gaseous diffusion uranium enrichment facilities located near Paducah, Kentucky, and Portsmouth, Ohio, that are owned and were previously operated by the U.S. Department of Energy (DOE). The AEA requires that the U.S. Nuclear Regulatory Commission (NRC) establish safety, safeguards, and security regulations for the enrichment facilities and certify that they are in compliance with those standards. Initial certification of the gaseous diffusion plants (GDPs) located near Paducah, Kentucky, and Portsmouth, Ohio, occurred on November 26, 1996, and NRC assumed regulatory oversight of USEC operations in leased areas of the GDPs, from DOE, on March 3, 1997.

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Section 1701 of the AEA (before being further amended by the Federal Reports Elimination Act of 1998) required that NRC, in consultation with DOE and the U. S. Environmental Protection Agency (EPA), report at least annually to Congress on the status of health, safety, and environmental conditions at the GDPs. The Report to Congress must include a determination of whether the facilities comply with applicable regulations established for the facilities, and all applicable laws. In accordance with this requirement, the first Report to Congress was provided to the Commission in SECY-97-270, dated November 20, 1997. The first Report to Congress, covering the period from March 3, 1997, to September 30, 1997, was sent to the Congressional oversight committees on January 5, 1998.

The President signed into law the Federal Reports Elimination Act of 1998, Public Law 105-362, on November 10, 1998, modifying Section 1701 of the AEA to require that the Report to Congress be issued "not later than the date on which a certificate of compliance is issued" instead of "annually." Accordingly, the second Report to Congress was provided to the Commission in SECY-98-275, dated November 24, 1998, in connection with then pending re-certification of the GDPs. The second Report to Congress was issued to the Congressional oversight committees on January 15, 1999, and renewed certificates of compliance were issued to USEC, for both GDPs, on January 29, 1999, with expiration dates of December 31, 2003.

The first and second Reports to Congress were prepared in accordance with the Office of Nuclear Material Safety and Safeguards (NMSS) Policy and Procedures Letter (P&P) 1-59, "Procedure for Preparing the Report to Congress on the Gaseous Diffusion Plants." This procedure was provided to the Commission in SECY-97-187, dated August 13, 1997, and revised in response to Commission direction in Staff Requirements Memorandum 97-187, dated September 18, 1997. The current (third) Report to Congress has essentially the same format and content as the first and second reports, although it is modified to cover an expanded 5-year reporting period. The current report was prepared in accordance with the latest revision of NMSS P&P 1-59, which incorporates lessons learned from the previous report preparation efforts and does not require convening of a special Senior Management Review Board.

#### DISCUSSION:

The third Report to Congress covers the 5-year period from October 1, 1998, to September 30, 2003. The report to Congress addresses those activities at the GDPs regulated by NRC and compliance with NRC regulations, and provides a summary assessment of performance at the GDPs.

During this period, the Paducah and Portsmouth GDPs have provided adequate protection of health, safety, safeguards, security, and environmental conditions, and have generally operated in compliance with NRC regulations. Identified violations of NRC regulatory requirements have been adequately addressed by corrective actions. Offsite radiological doses, as well as doses to workers, have been kept very low, and well within applicable limits. There have been only two events requiring activation of USEC's emergency response center, at the Portsmouth GDP, and no events resulting in a significant release of radioactive material. Licensee performance reviews were conducted at both GDPs in late 2002 with acceptable results.

USEC submitted applications for GDP re-certification on April 11, 2003. The staff has reviewed those applications and has prepared Compliance Evaluation Reports (CERs)

recommending issuance of renewed certificates of compliance with expiration dates of December 31, 2008, as requested by USEC. Based on the CERs, the NMSS Director intends to issue a decision to approve USEC's renewal requests. This decision will be announced in the attached notice to be published in the **Federal Register** upon issuance of the Report to Congress. In compliance with Section 1701(b)(1) of the AEA, the staff will not issue the renewed certificates to USEC until the Commission issues the third Report to Congress.

USEC's applications for certificate renewal did not propose any changes to the current safety basis or requirements. Updates to USEC's Depleted Uranium Management Plan (DUP) and Decommissioning Funding Plan (DFP) were provided, to reflect a revised 5-year projection of accumulated depleted uranium and new cost estimates. The staff reviewed the updated DUP and DFP in advance, and issued an approval by letter dated August 4, 2003, to allow USEC time to provide revised executed financial surety instruments before December 31, 2003. The basis for the staff's decision to renew the GDP Certificates of Compliance includes: (1) a finding of compliance with the requirements of 10 CFR 76.36, "Renewals," and with all other applicable NRC regulatory requirements, including those imposed by NRC's Orders issued June 17, 2002, requiring interim compensatory security measures; (2) results of recent licensee performance reviews and continued satisfactory performance, as reflected in inspection findings, and a general downward trend in the number of event reports and violations; and (3) review of USEC self-approved changes under 10 CFR 76.68.

The AEA requires that the Report to Congress be prepared in consultation with both DOE and EPA. This has been accomplished by providing DOE and EPA with preliminary copies of the Report to Congress, for comment. DOE provided substantial input that has been incorporated into the Report to Congress. EPA declined to provide comment or input.

RECOMMENDATION:

The staff believes the attached Report to Congress meets the requirements of the AEA and appropriately characterizes the status of the gaseous diffusion plants. The staff recommends that the Commission approve the Report to Congress and provide it to Congress.

COORDINATION:

The Office of the General Counsel has reviewed this package and has no legal objection.

*/RA/*

William D. Travers  
Executive Director  
for Operations

Attachments:

1. Report to Congress on Gaseous Diffusion Plants  
Located Near Paducah, Kentucky, and Portsmouth, Ohio
2. Congressional Transmittal Letters
3. **Federal Register** Notice of NMSS Director's Decision

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**ML032901096 (Package)**

\*See previous concurrence

<b>OFC</b>	FCFB		FCFB		FCFB		FCFB		OGC		TechEd	
<b>NAME</b>	DMartin* vc		BGarrett		RNelson*		GJanosko*		STreby*		EKraus*	
<b>DATE</b>	10/03/03		10/ /03		10/06/03		10/07/03		10/03/03		09/28/03	
<b>OFC</b>	Region III		FCSS		NMSS/D		DEDMRS		EDO			
<b>NAME</b>	MDapas*(email)		RPierson*		MJVirgilio*		CJPaperiello		WTravers			
<b>DATE</b>	10/16/03		10/15/03		10/17/03		10/31/03		10/31/03			

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