

**POLICY ISSUE
(Notation Vote)**

November 10, 2008

SECY-08-0176

FOR: The Commissioners

FROM: R. W. Borchardt
Executive Director for Operations

SUBJECT: REPORT TO CONGRESS ON THE HEALTH, SAFETY, AND
ENVIRONMENTAL CONDITIONS AT THE GASEOUS DIFFUSION
PLANTS LOCATED NEAR PADUCAH, KY, AND PORTSMOUTH, OH

PURPOSE:

This paper seeks Commission approval of the fourth "Report to Congress on Health, Safety, and Environmental Conditions at the Gaseous Diffusion Plants (GDPs) Located near Paducah, Kentucky (KY), and Portsmouth, Ohio (OH)," (Report to Congress) for the reporting period from October 1, 2003, to September 30, 2008.

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). Among other activities, the USEC operates the gaseous diffusion uranium enrichment facilities located near Paducah, KY, and Portsmouth, OH, 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 the facilities comply with those regulations. Initial certification of the GDPs occurred on November 26, 1996; the NRC assumed regulatory oversight of USEC operations in leased areas of the GDPs from the DOE on March 3, 1997.

Section 1701 of the AEA (before being further amended by the Federal Reports Elimination Act of 1998) required that the NRC, in consultation with the 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. This report to Congress must include a determination of whether the facilities comply with applicable regulations and laws. The first Report to Congress, covering the period from March 3, 1997 to September 30, 1997, was provided to the Commission in SECY-97-270, dated November 20, 1997, and was sent to the congressional oversight committees on January 5, 1998.

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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 staff provided second Report to Congress to the Commission in SECY-98-275, dated November 24, 1998, in connection with the then-pending recertification of the GDPs. The NRC sent the second Report to Congress to the congressional oversight committees on January 15, 1999. The NRC issued renewed certificates of compliance for both GDPs, on January 29, 1999, with expiration dates of December 31, 2003. The staff provided the third Report to Congress to the Commission in SECY-03-0189, dated October 31, 2003, and covered the period from October 1, 1998, to September 30, 2003. This report was issued to the congressional oversight committees on December 23, 2003. The NRC issued renewed certificates of compliance to USEC, for both GDPs, on December 29, 2003, with expiration dates of December 31, 2008.

DISCUSSION:

The fourth Report to Congress (Enclosure 1) covers the 5-year period from October 1, 2003, to September 30, 2008. The Report to Congress addresses NRC-regulated activities at the GDPs, discusses compliance with NRC regulations, and provides a summary assessment of performance at the GDPs.

During this period, the Paducah and Portsmouth GDPs conducted regulated activities in a manner that adequately protected public health and safety, security and the environment. With a few exceptions, they operated in compliance with NRC regulations. To amend for violations of regulatory requirements, the plants implemented adequate corrective actions. Offsite radiological doses, as well as doses to workers, have been very low, and well within regulatory limits. Until a single occurrence very recently, Paducah GDP had not activated the Emergency Operations Center (EOC) in the past 5 years. On September 14, 2008, the EOC was activated for an unclassified emergency in accordance with plant procedures at the Paducah GDP. The unclassified emergency was a result of high winds and storms in west Kentucky that caused some damage to site structures. There were no radiological impacts. There have been no events resulting in a significant release of radioactive material at either site. The NRC conducted licensee performance reviews at Paducah in 2007 and at Portsmouth in 2008; in both cases the agency found USEC's performance acceptable.

USEC submitted its applications for GDP recertification on April 10, 2008. USEC's applications for certificate renewal did not propose any changes to the current safety basis or requirements. The basis for the staff's decision to renew the GDP certificates of compliance includes: (1) a finding of compliance with the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 76.36, "Renewals," (2) continued compliance with NRC's orders issued June 17, 2002, imposing interim compensatory security measures, (3) the 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 (4) the review of USEC self-approved changes under 10 CFR 76.68, "Plant Changes."

The NRC staff reviewed the April 10, 2008, applications and prepared compliance evaluation reports (CERs) recommending, as requested by USEC, issuance of renewed certificates of compliance with expiration dates of December 31, 2013. The Director of Office of Nuclear Material Safety and Safeguards (NMSS), in his decision dated October 10, 2008 (Enclosure 2),

approved USEC's renewal requests. The agency published this director's decision in the *Federal Register* on October 22, 2008 (73 FR 63033). In compliance with Section 1701(b) (1) of the AEA, the staff plans to issue new certificates of compliance for the GDPs, with expiration dates of December 31, 2013, upon issuance of the Report to Congress.

The AEA requires that the NRC prepare the Report to Congress in consultation with DOE and EPA. The NRC accomplished this by providing DOE and EPA with preliminary copies of the Report to Congress for comment. NRC staff has incorporated the DOE input into the attached Report to Congress. EPA reviewed the basis documents for the report and determined that USEC provided accurate information regarding their compliance with environmental regulations. The EPA supports recertification.

RECOMMENDATION:

The attached Report to Congress meets the requirements of the AEA and appropriately characterizes the health, safety, and environmental conditions at the GDPs. The staff recommends that the Commission approve the report and provide it to Congress.

COORDINATION:

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

/RA Martin J. Virgilio for/

R. W. Borchardt
Executive Director
for Operations

Enclosures:

1. Report to Congress
2. Director's Decision
3. Congressional Transmittal Letters

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