

NUCLEAR REGULATORY COMMISSION

Docket Nos.: 70-7003, 70-7004

**USEC, Inc.; American Centrifuge Lead Cascade Facility; American Centrifuge Plant;
Notice of Receipt of a License Transfer Application and Consideration of Approval of
Application Regarding Proposed Corporate Restructuring and Conforming Amendment
and Opportunity to Provide Comments and Request a Hearing**

[NRC-2010-0355]

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of request for written consent to transfer control of materials license and opportunity to request a hearing and provide written comments.

DATES: A request for a hearing must be filed by **[INSERT DATE - 20 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID **NRC-2010-0355** in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC website and on the Federal rulemaking website Regulations.gov. Because your comments will not be edited, to remove any identifying or contact information the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Website: Go to <http://www.regulations.gov> and search for documents filed under Docket ID **NRC-2010-0355**. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail Carol.Gallagher@nrc.gov.

Mail comments to: Cindy Bladey, Chief, Rules, Announcements and Directives Branch (RADB), Division of Administrative Services, Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to RADB at 301-492-3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine, and have copied for a fee, publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The USEC Inc.'s Request for Written NRC Consent to Transfer Control of Material Licenses SNM-7003 and SNM-2011, for the American Centrifuge Lead Cascade Facility and the American Centrifuge Plant, respectively, is available electronically under ADAMS Accession Numbers ML102650185 and ML102660382.

Federal Rulemaking Website: Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID: **NRC-2010-0355**.

FOR FURTHER INFORMATION CONTACT: Osiris Siurano, Project Manager, Uranium Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, DC, 20555. Telephone: 301-492-3117; Fax number: 301-492-3359; email: Osiris.Siurano-Perez@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering an application for approval of a transfer of control regarding Special Nuclear Material License Nos. SNM-7003 and SNM-2011. Material Licenses were issued on February 24, 2004, and April 13, 2007, respectively, to USEC Inc., (the Licensee), for its American Centrifuge Lead Cascade Facility (LCF) and American Centrifuge Plant (ACP), both located at the Portsmouth Gaseous Diffusion Plant site in Piketon, Ohio. The licenses authorize the Licensee to:

- 1) possess and use source and special nuclear material at the LCF; and,
- 2) construct and operate a gas centrifuge uranium enrichment facility, the ACP.

The application now being considered is dated September 10, 2010. The Licensee proposes to modify its existing corporate structure and has established a subsidiary limited liability corporation, American Centrifuge Holdings, LLC. American Centrifuge Holdings, LLC consists of four additional subsidiaries: American Centrifuge Manufacturing, LLC, American Centrifuge Technology, LLC, American Centrifuge Operating, LLC (the proposed licensee), and American Centrifuge Enrichment, LLC. The Licensee requests NRC consent to transfer control of License Nos. SNM-7003 and SNM-2011 from USEC Inc. to the subsidiary limited liability company, American Centrifuge Operating, LLC. Upon NRC's approval of the transfer, USEC will make conforming changes to the License Applications, and Security Program documents to reflect American Centrifuge Operating, LLC as the licensee. No physical or operational changes to the LCF or the ACP are being proposed. An NRC administrative review,

documented in an e-mail sent to the Licensee on October 5, 2010 (ADAMS accession number ML102861865), found the application acceptable to begin a more detailed technical review. If the application is granted, the license would be amended for administrative purposes to reflect the transfer, by replacing references in the license to USEC Inc. with references to American Centrifuge Operating, LLC.

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.1301, the Commission is noticing in the *Federal Register* the receipt of the application for approval of the transfer of SNM-7003 and SNM-2001 because they involve major fuel cycle facilities licensed under 10 CFR Part 70. The NRC is considering the issuance of an order in accordance with 10 CFR 70.36, authorizing the transfer of control from USEC Inc. to American Centrifuge Operating, LLC. Pursuant to 10 CFR 70.36, no license granted under 10 CFR Part 70, and no right thereunder to possess or utilize special nuclear material granted by any license issued pursuant to the regulations in this Part, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of Atomic Energy Act (AEA), and gives its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed restructuring and reorganization will not affect the qualifications of the Licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

If the September 10, 2010, request is granted, the licenses would be amended to reflect USEC Inc.'s reorganized ownership, and the new Licensee's name. Before such a license amendment is issued, the NRC will have made the findings required by the AEA and NRC's regulations. These findings will be documented in a Safety Evaluation Report. An Environmental Assessment (EA) will not be performed because, pursuant to 10 CFR

51.22(c)(21), approvals of direct or indirect transfers of any license issued by NRC and any associated amendments of license required to reflect the approval of a direct or indirect transfer of an NRC license are categorically excluded from the requirement to perform an EA.

II. Opportunity to Request a Hearing

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected, and who desires to participate as a party, must file a request for a hearing.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at 301-415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate

before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at 866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemakings and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers,

home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The formal requirements for documents contained in 10 CFR 2.304(c)-(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met. In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by **[INSERT DATE 20 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

In addition to meeting other applicable requirements of 10 CFR 2.309, a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the AEA to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;

3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information filed by the applicant or otherwise available to the petitioner at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requester/petitioner shall file contentions based on the applicant's environmental report. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical - primarily concerns issues relating to matters discussed or referenced in the Safety Evaluation Report for the proposed action.
2. Environmental - primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.
3. Emergency Planning - primarily concerns issues relating to matters discussed or referenced in the Emergency Plan as it relates to the proposed action.
4. Physical Security - primarily concerns issues relating to matters discussed or referenced in the Physical Security Plan as it relates to the proposed action.
5. Miscellaneous - does not fall into one of the categories outlined above.

If the requester/petitioner believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requester/petitioner must set forth the contention and supporting bases, in full, separately for each category into which the requester/petitioner asserts the contention belongs with a separate designation for that category.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within 10 days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

As indicated below, pursuant to 10 CFR 2.310(g), any hearing would be subject to the procedures set forth in 10 CFR Part 2, Subpart M.

III. Opportunity to Provide Written Comments

In accordance with 10 CFR 2.1305, as an alternative to requests for hearings and petitions to intervene, persons may submit written comments regarding this action. Written comments must be submitted no later than **[INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document. Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

IV. Further Information

Documents related to this action, including the Application for the proposed license transfer (September 10, 2010) and supporting documentation, are available electronically through the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the publicly available documents related to this notice are:

The ADAMS accession numbers for the license transfer application are as follows:

Incoming Request and Enclosure 1 - ML102650185;

Enclosure 2 - Security Related, Non-Publically Available;

Enclosure 3 - ML102660382, and

Enclosure 4 - Security Related, Non-Publically Available.

If you do not have access to ADAMS, or if there are problems accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 9th day of November, 2010.

For the Nuclear Regulatory Commission.

/RA/

Brian W. Smith, Chief,
Uranium Enrichment Branch,
Fuel Facility Licensing Directorate
Division of Fuel Cycle Safety
and Safeguards
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