



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

May 8, 2013

EA 12-235

Mr. Robert Van Namen
Senior Vice President, Uranium Enrichment
United States Enrichment Corporation
Two Democracy Center
6903 Rockledge Drive
Bethesda, MD 20817

SUBJECT: REPLY TO NUCLEAR REGULATORY COMMISSION INTEGRATED
INSPECTION REPORT 70-7001/2012-005

Dear Mr. Van Namen:

This letter refers to inspections conducted from October 1 through December 31, 2012, at the Paducah Gaseous Diffusion Plant. The purpose of the inspections was to determine whether activities authorized by the certificate were conducted safely and in accordance with the U.S. Nuclear Regulatory Commission's (NRC) requirements. Based on the inspections, six apparent violations were identified involving failures to properly manage the Process Gas Leak Detector (PGLD) devices as radioactive material devices. The apparent violations included the failure to maintain control of the devices, perform leak testing, perform inventories, perform surveys, maintain the required radioactive material labeling, and improper waste shipments. These were documented in NRC Inspection Report 70-7001/2012-005, Agencywide Documents Access and Management System (ADAMS) Accession No. ML13043A023, issued on February 11, 2013.

In the letter transmitting the inspection report, we provided you the opportunity to address the apparent violations identified in the report by either attending a pre-decisional enforcement conference, or by providing a written response before we made our final enforcement decision. In a letter dated March 13, 2013, Accession No. ML13079A340, you provided a response to the apparent violations.

Based on the information developed during the inspection and the additional information you provided in your written response to the inspection report dated February 11, 2013, the NRC has determined that the six apparent violations of regulatory requirements described in the report did not occur. In this case, we based our conclusions on the fact that you were able to demonstrate that PGLD devices were possessed and used as exempt distributed devices rather than generally licensed or specifically licensed devices. We agree with you that the *Federal Register Notice* titled "Notice of Exemption of Fire Detection Units," dated November 26, 1969, (34 Fed. Reg. 18,870), and the "Notice of Exemption of Fire Detection Units; Correction," dated April 11, 1970, (35 Fed. Reg. 6018), both documents issued by the

U.S. Atomic Energy Commission (AEC), document that these devices were administratively incorporated into the exempt distribution pool, although they were originally manufactured and distributed as generally licensed or specifically licensed.

During our inspection of your activities, we noted that the devices in your possession were not labeled by the manufacturer in accordance with the requirements of 10 CFR 32.29. Traditionally, devices issued under 10 CFR 32.26 bear a label that clarifies the licensing status. Their attached label typically states, "THIS DETECTOR CONTAINS RADIOACTIVE MATERIAL AND HAS BEEN MANUFACTURED IN COMPLIANCE WITH U.S. NRC SAFETY CRITERIA IN 10 CFR 32.27. THE PURCHASER IS EXEMPT FROM ANY REGULATORY REQUIREMENTS." We believe the absence of this kind of labeling may result in confusion regarding the proper handling and disposal of these devices if they are later found in the public domain. Since these devices are currently exempt from NRC regulatory requirements, we are sharing this concern with you for your consideration and any actions you deem appropriate, but there is no additional response or commitment required at this time regarding this issue.

You are not required to respond to this letter. In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, and your response (if you choose to provide one) will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, any response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

R. Van Namen

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If you have any questions, please contact me at (404) 997-4700.

Sincerely,

/RA/ M. Lesser for

Anthony T. Gody, Director
Division of Fuel Facility Inspection

Docket No. 70-7001
Certificate No. GDP-1

cc: (See page 4)

R. Van Namen

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Docket No. 70-7001
Certificate No. GDP-1

cc: (See page 4)

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