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USNRCUnited States
Enrichment Corporation

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USECUnited States
Enrichment Corporation

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2 Democracy Center
6903 Rockledge Drive
Bethesda, MD 20817Tel: (301) 564-3200
Fax: (301) 564-3201OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

March 31, 1997

DOCKET NUMBER
PROPOSED RULE **PR** 25 + 95
(61FR40555)**VIA FACSIMILE AND FEDERAL EXPRESS**Secretary
US Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Docketing and Service Branch

SERIAL: GDP 97-0046

Paducah Gaseous Diffusion Plant (PGDP)
Portsmouth Gaseous Diffusion Plant (PORTS)
Docket Nos. 70-7001 and 70-7002USEC Comments on NRC Proposed Rule, "Access to and Protection of Classified
Information" 61 Fed. Reg. 40555

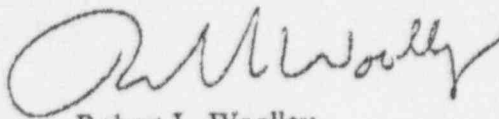
Dear Sir:

On behalf of the United States Enrichment Corporation (USEC), I am pleased to provide comments on the NRC's Proposed Rule, "Access to and Protection of Classified Information."

We apologize for the late submittal of these comments. It was only after conversations with NRC security personnel in early 1997 that USEC fully understood the need for review and comment of the proposed rule revision. Notwithstanding their untimeliness, we believe the enclosed comments are significant and will contribute to the industry's consistent implementation and understanding of the regulation. For this reason we believe they warrant review by the Commission.

We would be pleased to discuss these comments with you. Please contact me at (301) 564-3413 or Ms. Lisamarie Jarriel at (301) 564-3247.

Sincerely,

Robert L. Woolley
Nuclear Regulatory Assurance and Policy Manager9704020072 970331
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UNITED STATES ENRICHMENT CORPORATION

Comments

on

NRC Proposed Rulemaking, 10 CFR Parts 25 and 95 Access to and Protection of Classified Information

1. §25.17 Approval for processing applications for access authorization and
§25.19 Processing Applications

§25.17(f) "Applications for access authorization or access authorization renewal processing that are submitted to NRC for processing must be accompanied by a check or money order, "

§25.19 ". . . the application and its accompanying fee must be submitted to the NRC Division of Security."

As described in §25.17(f), and §25.19, applications for access authorization or access authorization renewal processing must be accompanied by a check or money order. The United States Enrichment Corporation (USEC) has over 4,500 individuals working at its facilities, most of whom have clearances. On the average, USEC processes such applications 1200 times a year, or approximately 5 times a day. To facilitate this process, therefore, USEC requests that the regulation allow for payment on a quarterly basis and the rule language be modified as follows:

§25.17(f) "Applications for access authorization or access authorization renewal processing that are submitted to NRC for processing ~~must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission~~ are subject to fees payable on a quarterly basis, representing the current cost for the processing . . . "

§25.19 ". . . the application ~~and its accompanying fee~~ must be submitted to the NRC Division of Security."

2. §25.21 Determination of initial and continued eligibility for access authorization.

§25.21(c)(1) ". . . access authorizations must be renewed every five years from the date of issuance. An application for renewal must be submitted at least 120 days before the expiration of the five year period . . . "

It is not clear who is responsible for assuring timely notice of expiration and the need for renewal; the authorizing agency or the organization employing the individual seeking renewal. Currently, USEC is notified by DOE when a reinvestigation is required and when an application for renewal must be received. It is not clear that the NRC provides such notification, and if so, to whom. In a similar manner, it is not clear that the NRC provides timely notification that an individual's access authorization has expired.

3. §25.5 Definitions and §25.35 Classified visits.

§25.5 "Visit authorization letters (VAL) means a letter, generated by a licensee, certificate holder or other organization under the requirements of 10 CFR parts 25 and/or 95, verifying the need to know and access authorization of an individual from that organization who needs to visit another authorized facility for the purpose of exchanging or acquiring classified information."

§25.35(c) Licensee, certificate holder or others shall include the following information in all Visit Authorization Letters (VAL) which they prepare: . . ."

As defined in § 25.5 and described in § 25.35(c), it appears that the regulations permit the licensee or certificate holder to verify the "need-to-know" and access authorization of an individual wishing to visit another facility for the purpose of acquiring classified information. Verification is documented by the issuance of VALs by the licensee or certificate holder, rather than by the issuance of a NRC Form 277 by the NRC's Division of Security. Without access to the NRC's database, it is not clear how the organization to be visited would verify information in the VAL; such as, the authorization of the Facility Security Officer signing the VAL, or the Foreign Ownership Control or Influence (FOCI) authorization for the requesting organization.

It appears at a minimum, that the licensees and certificate holders should:

- ▶ use a standardized form in conjunction with the VAL documenting information required by Parts 25 and 95, and
- ▶ have access to an authorized list of Facility Security Officers.

4. §95.25 Protection of classified information in storage.

§95.25(c)(2)(v) "(Classified lock combinations . . . must be changed) . . . at least once every 12 months."

It is USEC's belief that the National Industrial Security Program Operating Manual requires combinations to be changed only when merited by an employee termination/resignation or a recognized compromise. Therefore, USEC requests that the rule language be modified as follows:

§95.25(c)(2) . . .

"(iv) At other times when considered necessary by the Facility Security Officer or CSA--or

"(v) In any event at least once every 12 months."

5. §95.25 Protection of classified information in storage.

§95.25(b) "Confidential matter while unattended or not in use must be stored in the same manner as SECRET matter except that no supplemental protection is required."

§95.5 "... Supplemental protection means additional security procedures such as intrusion detection systems, security guards, and access control systems."

§95.25(i) "... If an unattended security container housing classified matter is found unlocked, ... (i)he container must be secured by protective personnel and the contents inventoried ..."

There appears to be an inconsistency between §95.25(b) and §95.25(i). §95.25(b) stipulates that supplemental protection (including the use of protective personnel) is not required for stored, unattended, confidential material. However, §95.25(i) requires that the same container of material, if found unlocked, be secured by protective personnel.

§95.25(i) also requires that the contents of an unattended container, if found unlocked, be inventoried. Unless the contents of the container are inventoried when initially stored, which is not required, compromise of the material will be indeterminate. Even if an initial inventory is made, inventory of the contents will not detect if the contents were photo-copied, or similarly compromised. USEC believes that an effort should be made to determine if the material has been compromised, however, contends that this can not be effectively accomplished with an inventory.

Therefore, USEC requests that the rule language be modified as follows:

§95.25(i) "... If an unattended security container housing classified matter is found unlocked, the custodian or an alternate must be notified immediately. The container must be secured by protective personnel and the contents inventoried and an effort made to determine if the contents were compromised as soon as possible. ..."