



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION III  
801 WARRENVILLE ROAD  
LISLE, ILLINOIS 60532-4351

December 8, 1997

EA 97-431

Mr. J. H. Miller  
Vice President - Production  
United States Enrichment Corporation  
Two Democracy Center  
6903 Rockledge Drive  
Bethesda, MD 20817

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION CIVIL PENALTY -  
\$55,000 (NRC Inspection Report 70-7001/97007(DNMS))

Dear Mr. Miller:

This refers to the inspection conducted from July 15 through September 12, 1997, at the U. S. Enrichment Corporation (USEC) Paducah Gaseous Diffusion Plant in Paducah, Kentucky. The purpose of the inspection was to review the activities authorized by NRC Certificate No. GDP-1. The inspection report detailing our findings was issued on September 24, 1997. A predecisional enforcement conference was held with you and members of your staff on October 9, 1997, to discuss the apparent violation, its root causes, and your corrective action.

Based on the information developed during the inspection, and the information provided during the conference, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty, and the circumstances surrounding the violation are described in detail in the subject inspection report. Specifically, the violation involved USEC's failure to maintain control of classified matter (documents, drawings, videotapes, etc.) at the Paducah facility.

The first example of uncontrolled classified material discovered outside the controlled access area occurred on August 13, 1997. On August 14, a second example of uncontrolled classified material outside the controlled access area was identified. The two examples were different in that the first involved materials transferred to the area as a part of a recent project, while the second involved material that may have been outside of the controlled access area for numerous years. A previous violation addressing the same problem (see Inspection Report No. 70-7001/97-002 (DNMS) dated May 30, 1997) and the two incidents of uncontrolled classified materials found outside the controlled access area indicated the problems with both the historical and current measures used to control classified materials.

In spite of the above incidents, immediate measures to either identify or control other materials that could be classified and were maintained outside the controlled access area were not initiated. Two weeks after identification of the materials outside the controlled access area, the plant staff initiated a "purge" effort to identify and control classified materials inside the controlled access area. While this effort addressed a portion of the overall concern, it did not focus on the area of greatest risk, materials outside the controlled access area. As a result,

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approximately two weeks later two additional examples of classified material were identified outside the controlled access area. These findings were more significant than the previous findings in that the classified materials were discovered in the possession and active use of uncleared individuals.

The NRC is concerned about USEC's deficiencies regarding control of classified matter and its failure to grasp and define the breadth of the issue in a timely manner. While the actual security consequences appear to be minimal in this case, the violation represents a significant regulatory concern, because of the potential for compromise of classified matter considered to be significant (i.e., the classified matter was accessible to uncleared personnel). In addition, NRC expects USEC to abide by all regulations and requirements, including those requirements related to the handling of classified matter. Therefore, this violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 as a Severity Level III violation.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$55,000 is considered for a Severity Level III violation. Because your facility has been the subject of escalated enforcement actions within the last two inspections,<sup>1</sup> the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. The discoveries of classified matter in various areas inside and outside of the plant controlled access area were identified by USEC personnel. Thus, credit for identification is warranted. However, immediate corrective action was not taken and NRC efforts were necessary to focus USEC's evaluative and corrective action process in order to obtain comprehensive corrective actions.

Specifically, it was not until the NRC highlighted both the security and regulatory significance of the items that plant management redirected their efforts to identify and control materials, which could be classified, outside the controlled access area. This final focus of efforts on the area of greatest risk occurred approximately one month after the first materials were identified outside the controlled access area. Significant NRC effort was necessary to ensure that the corrective actions to both the initial and the subsequent violation were correctly focused and comprehensive. Because of the stated examples, the NRC has determined that credit for corrective action is not warranted.

Therefore, to emphasize the importance of prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the base amount of \$55,000 for the Severity Level III violation.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

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<sup>1</sup> A Severity Level III violation was issued on September 22, 1997 (EA 97-267) for security plan violations.

J. H. Miller

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In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room.

Sincerely,

  
A. Bill Beach  
Regional Administrator

Docket No. 070-7001  
Certificate No. GDP-1

Enclosure: Notice of Violation and Proposed  
Imposition of Civil Penalty



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