

June 17, 2002

J. Morris Brown, Vice President Operations
United States Enrichment Corporation
2 Democracy Center
6903 Rockledge Drive
Bethesda, MD 20817

SUBJECT: ISSUANCE OF ORDERS FOR COMPENSATORY SAFEGUARDS MEASURES

Dear Mr. Brown:

The U.S. Nuclear Regulatory Commission has issued the enclosed Orders that modify the current certificates of compliance for your facilities to require compliance with the specified interim safeguards and security measures. These interim compensatory measures are listed in Attachment 1 of the enclosed Orders. The Commission recognizes that you have voluntarily and responsibly implemented additional security measures following the events of September 11, 2001, but in light of the continuing threat environment, the Commission concludes that the security measures should be embodied in Orders, consistent with the established regulatory framework. These Orders do not obviate the need for your facilities to continue to meet the objectives of Security Level III described in Information Notice 98-35, and maintain the effectiveness of existing security measures taken in response to the events of September 11, 2001.

The Commission has determined that the current threat environment requires that the enclosed Orders be effective immediately. The requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a more comprehensive re-evaluation of current safeguards and security programs.

The enclosed Orders call for response within specified time frames. With respect to the notices and submissions required by Sections IIIB and IIIC of the Orders, for any requirement of Attachment 1 that requires an analysis or is contingent on completion of another requirement of Attachment 1, it will be a sufficient response if you state in your twenty-day submission that completion of the requirement is dependent on completion of an analysis or other requirement and the expected date of completion of the analysis or other requirement. Upon completion of such analysis or other requirement, you should promptly submit the results and the actions thereafter proposed with respect to the requirement at issue, as well as the projected date of completion. No extension of time from the twenty-day requirement is necessary for such responses submitted within twenty days.

J. Brown

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As a separate matter, if you wish to preserve your right to request a hearing on any requirement contingent upon completion of an analysis or other requirement, a request for an extension of time to request a hearing must be filed within twenty days of the date of these Orders in accordance with Section IV of the Orders. Such a request may seek a reasonable period of time to request a hearing beyond the date that the staff informs you whether the actions proposed and completion date for the requirement(s) contingent upon an analysis or other requirement are satisfactory.

Please contact Catherine Haney at (301) 415-6825 to facilitate resolution of any issues related to compliance with the requirements in the enclosed Orders, or if you have any other questions.

The enclosed Orders have been forwarded to the Office of the Federal Register for publication without the classified attachment.

Sincerely,

/RA/

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures: Orders Modifying Certificates of Compliance

Docket Nos.: 70-7001
70-7002

CONFIDENTIAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
UNITED STATES ENRICHMENT CORP.)	Docket No. 070-7001
PADUCAH GASEOUS DIFFUSION PLANT))	Certificates of Compliance
PADUCAH, KENTUCKY)	Paducah - GDP-1
)	EA-02-108
)	

**ORDER MODIFYING CERTIFICATE OF COMPLIANCE
(EFFECTIVE IMMEDIATELY)**

I

United States Enrichment Corporation (USEC) holds Certificate of Compliance GDP-1, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing USEC to receive, possess and transfer byproduct, source material, and special nuclear material in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR Part 76.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., utilizing large commercial aircraft as weapons. In response to the

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attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its certificate and license holders in order to strengthen certificate and license holders' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at regulated facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by USEC as prudent, interim measures to address the current threat environment. Therefore, the Commission is imposing interim requirements, set forth in Attachment 1¹ of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

¹ Attachment 1 contains classified information and will not be released to the public.

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The Commission recognizes that some of the requirements set forth in Attachment 1² to this Order may already have been initiated by USEC in response to previously issued advisories, or on its own. It is also recognized that some measures may need to be tailored specifically to accommodate the specific circumstances and characteristics existing at USEC's facilities to achieve the intended objectives and avoid any unforeseen effect on safe operation.

Although USEC's response to the Safeguards and Threat Advisories has been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission believes that the response must be supplemented because of the current threat environment. As a result, it is appropriate to require certain security measures so that they are maintained within the established regulatory framework. In order to provide assurance that USEC is implementing prudent measures to achieve an adequate level of protection to address the current threat environment, Certificates of Compliance GDP -1 shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR §§ 2.202 and 76.70, I find that, in the circumstances described above, the public health, safety and interest and the common defense and security require that this Order be immediately effective.

² To the extent that specific measures identified in Attachment 1 to this Order require actions pertaining to the USEC's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

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III

Accordingly, pursuant to Sections 63, 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR § 2.202 and 10 CFR Part 76, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT Certificate of Compliance GDP-1 is MODIFIED AS FOLLOWS:

- A. USEC shall, notwithstanding the provisions of any Commission regulation or certificate to the contrary, comply with the requirements described in Attachment 1 to this Order. USEC shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation, unless otherwise specified in Attachment 1 to this order, **no later than November 29, 2002**.
- B. 1. USEC shall, within **twenty (20) days** of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause USEC to be in violation of the provisions of any Commission regulation or its facility certificates. The notification shall provide USEC's justification for seeking relief from or variation of any specific requirement.
2. If USEC considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact safe operation of its facilities, USEC must notify the Commission, within **twenty (20) days** of this Order, of the adverse safety impact, the basis for its determination that the requirement has an

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adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirement in question, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, USEC must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

- C. 1. USEC shall, within **twenty (20) days** of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 1.
- 2. USEC shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.
- D. Notwithstanding any provision of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

USEC's responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR §76.5. In addition, USEC's submittals that contain classified information shall be properly marked and handled in accordance with 10 CFR § 95.39

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, modify, relax or rescind any of the above conditions upon demonstration by USEC of good cause.

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IV

In accordance with 10 CFR §§ 2.202 and 76.70, USEC must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which USEC or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532, and to USEC if the answer or hearing request is by a person other than USEC. If a person other than USEC requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.714(d).

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If a hearing is requested by USEC or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR §§ 2.202(c)(2)(i) and 76.70(c)(3), USEC, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Dated this 17th day of June 2002

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
UNITED STATES ENRICHMENT CORP.)	Docket No. 070-7002
PORTSMOUTH GASEOUS DIFFUSION)	Certificates of Compliance
PLANT, PORTSMOUTH OHIO)	Portsmouth - GDP-2
)	EA-02-108
)	

**ORDER MODIFYING CERTIFICATE OF COMPLIANCE
(EFFECTIVE IMMEDIATELY)**

I

United States Enrichment Corporation (USEC) holds Certificate of Compliance GDP-2, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing USEC to receive, possess and transfer byproduct, source material, and special nuclear material in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR Part 76.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number

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of Safeguards and Threat Advisories to its certificate and license holders in order to strengthen certificate and license holders' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at regulated facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by USEC as prudent, interim measures to address the current threat environment. Therefore, the Commission is imposing interim requirements, set forth in Attachment 1¹ of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

¹ Attachment 1 contains classified information and will not be released to the public.

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The Commission recognizes that some of the requirements set forth in Attachment 1² to this Order may already have been initiated by USEC in response to previously issued advisories, or on its own. It is also recognized that some measures may need to be tailored to specifically accommodate the specific circumstances and characteristics existing at USEC's facilities to achieve the intended objectives and avoid any unforeseen effect on safe operation.

Although USEC's response to the Safeguards and Threat Advisories has been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission believes that the response must be supplemented because of the current threat environment. As a result, it is appropriate to require certain security measures so that they are maintained within the established regulatory framework. In order to provide assurance that USEC is implementing prudent measures to achieve an adequate level of protection to address the current threat environment, Certificates of Compliance GDP-2 shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR §§ 2.202 and 76.70, I find that, in the circumstances described above, the public health, safety and interest and the common defense and security require that this Order be immediately effective.

² To the extent that specific measures identified in Attachment 1 to this Order require actions pertaining to the USEC's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

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III

Accordingly, pursuant to Sections 63, 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR § 2.202 and 10 CFR Part 76, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT Certificate of Compliance GDP 2 is MODIFIED AS FOLLOWS:

- A. USEC shall, notwithstanding the provisions of any Commission regulation or certificate to the contrary, comply with the requirements described in Attachment 1 to this Order. USEC shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation, **no later than November 29, 2002**.
- B. 1. USEC shall, within **twenty (20) days** of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause USEC to be in violation of the provisions of any Commission regulation or its facility certificates. The notification shall provide USEC's justification for seeking relief from or variation of any specific requirement.
2. If USEC considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact safe operation of its facilities, USEC must notify the Commission, within **twenty (20) days** of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives

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specified in the Attachment 1 requirement in question, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, USEC must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

- C.
 - 1. USEC shall, within **twenty (20) days** of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 1.
 - 2. USEC shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.
- D. Notwithstanding any provision of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

USEC's responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR §76.5. In addition, USEC's submittals that contain classified information shall be properly marked and handled in accordance with 10 CFR § 95.39

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, modify, relax or rescind any of the above conditions upon demonstration by USEC of good cause.

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IV

In accordance with 10 CFR §§ 2.202 and 76.70, USEC must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which USEC or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532, and to USEC if the answer or hearing request is by a person other than USEC. If a person other than USEC requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.714(d).

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If a hearing is requested by USEC or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR §§ 2.202(c)(2)(i) and 76.70(c)(3), USEC, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Dated this 17th day of June 2002

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