

Thus, the enforcement-related action requested by the Petitioners for a VIP is not warranted. Additionally, the licensee is already taking action to provide an adequate level of independent verification for restart activities. Therefore, the Petitioners' request that the NRC issue an Order to the licensee requiring the establishment of a VIP is denied. If further assessment by the IMC 0350 Oversight Panel identifies new and/or different issues that would warrant consideration of an enforcement-related action similar to that used at Millstone, a change to the current staff regulatory approach would be considered.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 15th day of October, 2002.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7001]

### Paducah Gaseous Diffusion Plant, United States Enrichment Corp.; Notice of Approval of Request for Temporary Exemption

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of approval of request for temporary exemption.

**SUMMARY:** The Nuclear Regulatory Commission (Commission) is approving, upon publication of this notice, a request for a temporary exemption from the requirement to perform an emergency preparedness (EP) exercise every 2 years for the Paducah Gaseous Diffusion Plant operated by the United States Enrichment Corporation (USEC). The temporary exemption is needed because USEC needs to concentrate available resources on prompt implementation of requirements in the Commission's Security Order issued June 17, 2002, and postponement of the

EP exercise until after implementation of the Security Order requirements will provide a better indication of preparedness under the new requirements. USEC requested authorization to conduct the EP exercise on September 10, 2003, a delay of approximately 10 months from the currently scheduled exercise date of November 13, 2002. However, the Commission is requiring USEC to conduct the exercise no earlier than July 15, 2003, and no later than August 15, 2003. USEC will then return to the normal biennial schedule with the next exercise being conducted in September 2004. The NRC has prepared an environmental assessment with a Finding Of No Significant Impact (FONSI) on the request.

**FOR FURTHER INFORMATION CONTACT:** Dan E. Martin, Project Manager, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415-7254, e-mail dem1@nrc.gov.

**SUPPLEMENTARY INFORMATION:** The Commission is approving a temporary exemption from the requirement to perform an emergency preparedness exercise every 2 years, pursuant to 10 CFR part 76, for the Paducah Gaseous Diffusion Plant (PGDP), operated by USEC. The facility is authorized to use Special Nuclear Material (SNM) in the enrichment of natural uranium to prepare low-enriched uranium to be used by others in the fabrication of nuclear fuel pellets and fuel assemblies and operates near Paducah, Kentucky.

The PGDP facility was scheduled to conduct an EP exercise on November 13, 2002. USEC has requested an exemption to allow postponement of the exercise until September 10, 2003, a delay of about 10 months. The delay is requested in order to allow USEC to concentrate available resources on implementation of requirements in the Security Order issued by the Commission on June 17, 2002. The Security Order compels a variety of actions to increase security in light of the terrorist attacks on the United States that occurred on September 11, 2001, and is not subject to public disclosure. USEC also wishes to postpone the exercise until after the Security Order requirements are implemented because the exercise will then provide a better indication of preparedness under the new requirements. The Commission is requiring USEC to conduct the exercise no earlier than July 15, 2003, and no later than August 15, 2003.

The last biennial EP exercise conducted at the PGDP facility was conducted on September 21, 2000. USEC's Emergency Plan, in accordance with 10 CFR 76.91(l), requires that plant personnel plan and conduct biennial EP exercises. Because USEC needs to schedule the next exercise beyond the end of calendar year 2002, USEC has requested a temporary exemption from the requirement to conduct biennial EP exercises. USEC requested authorization to conduct the EP exercise on September 10, 2003. However, the Commission is requiring USEC to conduct the exercise no earlier than July 15, 2003, and no later than August 15, 2003. The Commission is also requiring USEC to offer and conduct training for off-site responders, before the exercise is conducted, to familiarize them with the new security requirements. USEC will then return to the normal biennial schedule with the next exercise being conducted in September 2004. The NRC staff has prepared an environmental assessment of the proposed action and reached a finding of no significant impact.

### Environmental Assessment

#### *Identification of the Proposed Action*

The proposed action would grant temporary scheduler relief from the requirement of 10 CFR 76.91(l) to perform a biennial EP exercise during calendar year 2002. The proposed action would require USEC to conduct the PGDP 2002 biennial exercise no earlier than July 15, 2003, and no later than August 15, 2003, and would require USEC to offer and conduct training for off-site responders to familiarize them with the new security requirements before the exercise is conducted. The proposed action is otherwise in accordance with USEC's request dated August 28, 2002.

#### *Need for the Proposed Action*

The proposed action is necessary to support a request by USEC that the EP exercise scheduled for November 13, 2002, be postponed beyond calendar year 2002, to the summer of 2003. The delay is needed to allow USEC to concentrate available resources on implementation of requirements in the Security Order issued by the Commission on June 17, 2002, until completion. The Security Order compels a variety of actions to increase security in light of the terrorist attacks on the United States that occurred on September 11, 2001, and is not subject to public disclosure. Among the actions that USEC is required to take are substantial plant modifications, training

programs, and development and implementation of new procedures. USEC also wishes to postpone the exercise until after the Security Order requirements are implemented because the exercise will then provide a better indication of preparedness under the new requirements.

#### *Environmental Impacts of the Proposed Action*

The proposed action would not materially affect the emergency response capabilities of the PGDP facility. The last EP exercise was conducted on September 21, 2000, and there were no issues identified which required immediate corrective action. One weakness identified concerned the failure of staff critiques to identify all areas of exercise weaknesses. This weakness has been addressed by USEC by communicating this finding to exercise participants and monitoring subsequent critiques for adequacy. NRC reviews and inspections since the 2000 exercise have not identified a decline in the effectiveness of USEC's emergency response capability. The postponement should have no impact on the effectiveness of USEC's emergency response capability. To assure Commission staff receive practice needed to assure Commission readiness to cope with an emergency at the GDPs or other fuel cycle facilities, the Commission is requiring USEC to conduct the exercise no earlier than July 15, 2003, and no later than August 15, 2003. To assure that off-site responders are prepared, the Commission is requiring USEC to offer and conduct training for off-site responders to familiarize them with the new security requirements before the exercise is conducted.

Because temperatures in July and August can be very high, and the temperatures in the cascade buildings and in other plant facilities can be extraordinarily high in those months, there is risk of significant heat stress to exercise participants required to wear substantial protective gear for anti-contamination, fire protection, or security purposes. To avoid significant risk of heat stress during the exercise, the Commission will allow USEC to not require that response personnel involved in the exercise wear the full complement of protective gear where heat stress would be a likely result.

The proposed action will not increase the probability or consequences of plant accidents, no changes are being made in the amounts or types of any effluents that could be released off-site, and there is no increase in individual or cumulative radiation exposure.

Accordingly, the Commission concludes that there are no significant radiological impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological impacts associated with the proposed action.

#### *Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the proposed action would result in no change in environmental impacts and would result in hardship to USEC and others by potentially delaying the implementation of the requirements in the Commission's Security Order issued June 17, 2002. The environmental impacts of the proposed action and the alternative action are otherwise similar.

#### *Alternative Use of Resources*

The proposed action does not involve the use of any resources beyond those already necessary to conduct the EP exercise during 2002, and would merely delay the exercise.

#### *Agencies and Persons Consulted*

In accordance with its stated policy, the NRC staff consulted with: (1) State of Illinois official Thomas Ortoger, Director, Illinois Department of Nuclear Safety; (2) State of Kentucky official Janice H. Jasper, Radiation Health and Toxic Agents Branch, Cabinet for Health Services; and (3) U.S. Department of Energy official Randall M. DeVault, Group Leader, Transition and Technology Group, Office of Nuclear Fuel Security and Uranium Technology, regarding the environmental impact of the proposed action. No objections were received.

Consultations with the U.S. Fish and Wildlife Service and the State Historic Preservation Officer were not performed because of the lack of any conceivable impact to fish and wildlife or historic assets.

#### *Finding of No Significant Impact*

Based on the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

#### *List of Preparers*

This document was prepared by Dan E. Martin, Project Manager, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards. Mr. Martin is the Project Manager for the Paducah Gaseous Diffusion Plant.

For further details with respect to the proposed action, see the USEC letter request dated August 28, 2002, available for public inspection at the Commission's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site <http://www.nrc.gov/reading-rm/adams.html>.

Dated at Rockville, Maryland this 10th day of October, 2002.

For the Nuclear Regulatory Commission

**Daniel M. Gillen,**

*Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46651; File No. SR-BSE-2002-18]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange Relating to an Extension of a Temporary Exemption Concerning an Interpretation of its Execution Guarantee Rule**

October 11, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 3, 2002, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.