

ORIGINAL
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NUCLEAR REGULATORY COMMISSION

**Title: BRIEFING ON CERTIFICATION OF USEC -
PUBLIC MEETING**

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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4 BRIEFING ON CERTIFICATION OF USEC

5 ***

6 PUBLIC MEETING

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8
9 Nuclear Regulatory Commission
10 Room 1F-16
11 11555 Rockville Pike
12 Rockville, Maryland
13

14 Wednesday, August 28, 1996
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16 The Commission met in open session, pursuant to
17 notice, at 10:00 a.m., the Honorable SHIRLEY A. JACKSON,
18 Chairman of the Commission, presiding.
19

20 COMMISSIONERS PRESENT:

21 SHIRLEY A. JACKSON, Chairman of the Commission
22 KENNETH C. ROGERS, Member of the Commission
23 GRETA J. DICUS, Member of the Commission
24 NILS J. DIAZ, Member of the Commission
25 EDWARD MCGAFFIGAN, JR., Member of the Commission

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1 STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

2 JOHN C. HOYLE, Secretary

3 KAREN D. CYR, General Counsel

4 WILLIAM TIMBERS, President & CEO, USEC

5 WILLIAM AXELSON, Acting Deputy Administration,
6 Region II

7 CARL PAPERIELLO, Director NMSS

8 JOHN HICKEY, Chief, Enrichment Branch, NMSS

9 WALTER SCHWINK, Section Chief, Uranium
10 Enrichment Standards, NMSS

11 JAMES TAYLOR, EDO

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1 P R O C E E D I N G S

2 CHAIRMAN JACKSON: Good morning, ladies and
3 gentlemen.

4 I both want to welcome and to introduce to you
5 Commissioner Edward McGaffigan, who is in his first public
6 meeting as a commissioner.

7 Do you have any comment you would like to make?

8 COMMISSIONER MCGAFFIGAN: Thank you, Dr. Jackson.

9 I just will say the same thing here I said
10 upstairs. I intend to try to be the best commissioner I can
11 be in the coming three years and ten months. I bring a
12 different perspective. All my friends upstairs are largely
13 from the Defense world. I hope that perspective helps
14 strengthen the Commission.

15 Thank you.

16 CHAIRMAN JACKSON: I had on a previous meeting
17 this week introduced our other newest commissioner, Dr. Nils
18 Diaz. I had introduced him in a smaller public meeting.

19 Would you like to make a comment?

20 COMMISSIONER DIAZ: I'd just like to say that I am
21 really glad I am no longer the union member of the
22 Commission.

23 [Laughter.]

24 CHAIRMAN JACKSON: Thank you.

25 This morning, Mr. William Timbers of the United

1 States Enrichment Corporation and the NRC staff will brief
2 the Commission on the results of the certification process
3 for the USEC gaseous diffusion facilities, located in
4 Paducah, Kentucky and Portsmouth, Ohio.

5 The Energy Policy Act of 1992 and the USEC, that
6 is, U. S. Enrichment Corporation Privatization Act of 1996
7 placed the responsibility of certifying the gaseous
8 diffusion plants on the NRC. Since the 1992 act, the
9 Commission has established standards for the plants that
10 will protect public health and safety. We have also
11 established a certification process.

12 In September of 1995, USEC submitted a revised
13 certification application that is being addressed and is the
14 subject of discussion here. The staff has briefed the
15 Commission a number of times regarding the status of the
16 certification process. Following a previous briefing, the
17 Commission directed the staff to prepare a paper summarizing
18 the safety assessment and to brief the Commission when the
19 certification process was complete, but before issuing
20 certification. That is, then, the subject of this public
21 meeting and we look forward to hearing about the results.

22 I understand that copies of the staff papers and
23 charts are available at the entrances to the meeting.

24 Do any of my fellow commissioners have any
25 additional comments?

1 [No response.]

2 CHAIRMAN JACKSON: If not, Mr. Timbers, you may
3 proceed.

4 MR. TIMBERS: Thank you, Chairman.

5 First of all, before I begin, I would like to say
6 a few remarks. First of all, I would like to introduce my
7 colleagues with me here today. First of all, is George
8 Rifakes, who is executive vice-president for Operations for
9 USEC and Rob Woolley, who is manager for Nuclear Regulatory
10 Assurance at USEC.

11 Second of all, as an executive in the nuclear fuel
12 business, it is tremendous from our industry standpoint to
13 be the first to sit in front of five commissioners for a
14 long time with the Nuclear Regulatory Commission. I think
15 that it is an indication of an additional commitment to this
16 arena and we are very pleased to be sitting here today and
17 presenting to the entire Commission.

18 I think the first time I addressed the Commission,
19 there were two commissioners. So, great progress has been
20 made in the last couple of years in that regard.

21 I would like to move to my remarks regarding our
22 observations about the regulatory process. I'd first like
23 to recognize Chairman Jackson, Commissioner Dicus,
24 Commissioner Rogers, Commissioner Diaz and Commissioner
25 McGaffigan and members of the NRC staff. I thank you for

1 the opportunity to be here today and to offer first my brief
2 comments about the application process for certification of
3 our gaseous diffusion plants and second, to clearly state
4 USEC's position and philosophy as a regulated nuclear fuel
5 company under the NRC.

6 We have been actively a certification application
7 for the gaseous diffusion plants since 1994. In May of
8 1995, I appeared by the NRC Commission and committed USEC to
9 listen carefully to NRC's concerns and direction, to address
10 each and every issue raised by the NRC and communicate
11 completely and openly, directly with the NRC.

12 We have diligently pursued each of these
13 commitments over the past 15 months and we were met with an
14 equally diligent effort on the part of the NRC staff. Both
15 USEC and the Commission staff have worked very hard to get
16 here today. Our far-ranging and intensive interactions have
17 involved diverse experts from the Commission, the Department
18 of Energy, USEC, Lockheed-Martin Utility Services and
19 others, working together to conclude a unique undertaking.

20 There was no precedent for NRC certification and
21 regulation of an operating gaseous diffusion plant and we
22 share the challenges of developing a sound framework for
23 NRC's regulations of these plants. To be sure, none of the
24 participants thought this would be an easy or
25 straightforward process. It has, in fact, been a tough, a

1 challenging and perhaps not surprisingly, even a bit
2 contentious process at times.

3 Since all of us have been working in uncharted
4 territory, differing perspectives, considerations and
5 constraints came into play. I'm gratified that all parties
6 involved have been able to constructively address and
7 reconcile these matters so that there is an agreement on the
8 methods by which we will continue the safe operation of the
9 plants. We are now on the threshold of completing the
10 initial step toward certification and moving to the next
11 stage, the operation of the gaseous diffusion plants under
12 NRC regulations.

13 The 110 reactors and nine fuel facilities that the
14 NRC regulates have nuclear operating histories, the past
15 experiences which have been well known to the NRC since
16 those facilities were first licensed and operated. The
17 Paducah and Portsmouth plants are the first facilities to be
18 already in operation prior to coming under NRC regulation.
19 I know the uniqueness of the situation is well understood.
20 Since we are bringing to you an existing history, we will
21 focus on what we want to be and the company that we will be.

22 There is an agreement that, historically, the
23 gaseous diffusion plants have been safely operated. I want
24 to assure you and the NRC staff that, first, we are
25 confident about our ability to continue such safe

1 operations. Second, we are equally committed to working
2 with the NRC to secure and maintain your continued
3 confidence in us and in our performance.

4 I make this commitment not only because you would
5 expect no less from us, but also because of another
6 motivation as well. It makes good business sense. Safety
7 is good for the bottom line. It is a key element in our
8 overall business strategy. It has been today. It has since
9 we began our operation in 1993.

10 In implementing the mandates of the Energy Policy
11 Act, USEC's management developed a three-part commitment to
12 succeed. The three elements of that commitment are
13 performance, efficiency and safety. None can exist without
14 the others. Each depends upon the others for success.
15 Production, performance and efficiency keeps people employed
16 and makes profits, which are required to make investments
17 and safety possible. Safe operations protect the company's
18 assets and assures that efficiency and production goals can
19 be met.

20 Neither a facility owner nor the regulator should
21 focus on one element at the exclusion of the others. We
22 view them as inseparable. Safety is a continuous process.
23 It is not an end. We have and we will continue to work for
24 ways to improve.

25 We have, for example, reorganized the plants along

1 functional lines. We have brought in individuals with
2 nuclear plant operating experience to complement experienced
3 plant staff.

4 Consistent with NRC's interests, we have enhanced
5 USEC's oversight of plant operations. Last fall, we
6 established a safety, safeguards and quality organization at
7 the site, reporting to Mr. Rifakes, USEC's executive vice-
8 president. This organization is responsible for assuring
9 appliance with applicable regulatory requirements and USEC
10 policies.

11 We have established new management expectations
12 about rigor and formality of operations. To further improve
13 plant safety and operations, we have formed a plant
14 performance review committee or PPRC, composed of outside
15 representatives with extensive nuclear experience, to
16 provide an objective external perspective to our senior
17 operations management. This committee has been meeting for
18 the past 18 months.

19 We have developed an action plan to provide a
20 sound basis for improvement of management controls to insure
21 safe operations of the plants. For example, we are
22 enhancing management controls over policy and procedural
23 programs, corrective action programs, performance measures,
24 audits and self-assessment and training programs. With DOE,
25 we are preparing a new accent analysis to serve as the

1 technical baseline for the plants.

2 We have learned a great deal and we are improving
3 on our abilities. We are committed to constant review and
4 continuous improvement of our performance. We have been
5 consistent in our commitment to a vision for the future
6 operation of the plants. That vision must always start with
7 assuring the safety of the public, our workers and the
8 environment. There is no room for complacency. We will
9 continually work to maintain and approve margins of nuclear
10 and industrial safety.

11 I also want again to acknowledge NRC for its well-
12 earned reputation for excellence in the conduct of its
13 regulatory activities. I commit to you that we will be open
14 and responsive in all of our dealings with the Commission.

15 We have made commitments. We have made
16 commitments to ourselves. We have made commitments to our
17 employees, to our contractors and to you, the Commission.
18 We take the commitments that we have made in the application
19 and the compliance plans and the new technical safety
20 requirements very seriously. I want to reconfirm to you
21 that, our first and foremost commitment without reservation
22 of any kind is the safe operation of our plants.

23 We look forward to a successful and productive
24 relationship with you our new regulator, as we both work
25 relentlessly to maintain the same goal, the continued safe

1 operation of the uranium enrichment plants.

2 Thank you.

3 CHAIRMAN JACKSON: Thank you.

4 Mr. Timbers, can you tell us a little about how
5 privatization has impacted the certification action or vice-
6 versa if at all with the linkages? Then I or, I believe,
7 Commissioner McGaffigan may have a follow on question for
8 you?

9 MR. TIMBERS: Most everything we do is
10 interrelated. There are many activities that we are
11 involved in. I have constantly maintained from the
12 privatization standpoint that these plants for 40 years have
13 operated safely. They have operated largely efficiently and
14 productively by the Department of Energy and its
15 predecessors.

16 Accordingly, from a privatization standpoint --
17 and I have made this to the representatives of the financial
18 community -- that it should not -- the certification process
19 is a continuum in the regulatory environment we work in and
20 should not have an impact on the privatization per se. We
21 are currently regulated at this moment by the Department of
22 Energy. We are regulated. The regulation will change under
23 NRC to a different form and a different regime. All that
24 will do is continue the safe operation and continue the
25 regulation in even a more rigorous manner than has been done

1 in the past.

2 So, what it will do for privatization, it will not
3 impair the timing or the impact of privatization. What it
4 does do is provide investors greater insurance that the
5 plants will continue the safe operation.

6 I come from the private sector and I do emphasize
7 again that it makes good business sense to run safe plants.
8 We find that, from an investor's standpoint, from a
9 privatization standpoint, the implementation of the
10 certification process here now and the regulations from NRC
11 will only enhance the privatization efforts and the
12 privatization results of USEC.

13 CHAIRMAN JACKSON: I had a follow on question
14 having to do with your being the U. S. Government executive
15 agent relative to some issues with high enriched uranium.
16 I'm going to defer to Commissioner McGaffigan.

17 COMMISSIONER MCGAFFIGAN: I'd like to just
18 explore something that was on the front page of the "New
19 York Times" today. It probably brings my national security
20 bias out in the open right at the outset. That is one of
21 our functions as a commission is to protect the national
22 security as well as public health and safety. It strikes me
23 that, Russian highly enriched uranium makes it very
24 difficult for you to make a profit.

25 The "New York Times" article talks about an

1 incident that occurred earlier this summer where our --
2 Senator Domenici managed to get you all to buy some Russian
3 highly enriched uranium which you were reluctant to by,
4 according to the article, because of its threat to profits.

5 Have we set you up for failure? Can you possible
6 make a profit if we do the right thing by our national
7 security interests and we buy the Russian highly enriched
8 uranium in the quantities that we should buy it?

9 I prefaced that by also saying, last month, the
10 Nunn-Lugar-Domenici amendment passed the Senate 98 or 99 to
11 nothing and I think that the sentiment in the Congress to
12 deal with the post-cold war effects of vast amounts of
13 Russian weapons material being available is self-evident.
14 The Congress is intent on working on this.

15 So, how do you make a profit when you have this
16 vast amount of Russian HEU to be blended down and which
17 Congress probably, if not now maybe next year, will tell you
18 that you need to buy in quantity?

19 MR. TIMBERS: Well, I'm glad you asked the
20 question.

21 I guess first of all, one of the first things
22 someone told me when I came to Washington is, the news
23 reports written in any kind of newspaper, in due deference
24 to the press, are generally about 50 percent accurate.
25 There is another 50 percent that has not been shown. I

1 might quibble with the percentages on this article, but I
2 think that premise still holds true here.

3 Let me state a couple of things first.

4 This Russian HEU deal, this megatons to megawatts
5 deal is working. It has been proven to be extremely
6 successful. I think it is one of the great national policy
7 successes in the last three years. There are a lot of
8 commentators, pundit, professors that would like to create a
9 Cassandra environment. But Commissioner, let me say
10 clearly, it isn't there.

11 There is a contract that we operate under that
12 stipulates the maximum amount of quantities to be brought in
13 in any given year. We are exceeding them. We are exceeding
14 those. We are exceeding the quantities the contract calls
15 for. We are bringing in the material consistent with
16 national security interests.

17 I think that at this point -- in the first year,
18 we brought in six metric tons of highly enriched uranium.
19 That was in 1995. In 1996, we will bring a total contract
20 of 12 metric tons. I would point out to you, Commissioner,
21 the contract called for ten. We are going to bring in 12
22 this year. We are under discussions of what the delivery
23 should be in 1997.

24 Now, let me make something very, very clear.

25 We are executive agents for the United States of

1 America. I don't have a foreign policy desk. I don't have
2 a Russian desk in my company. Therefore, we do not set
3 foreign policy. We act under the guidance and direction of
4 the United States Government.

5 Now, in the discussions that go on with the
6 Russian Federation, I don't particularly care to negotiate
7 those discussions in the "New York Times," but we do talk at
8 all times with the United States Government and related
9 agencies on this. I think it is clear to say that, in any
10 discussions we have with the Russian Federation, we brief
11 the government before the meeting. We brief the government
12 during the meeting and we brief the government about the
13 results.

14 So, the implications are referred to in this
15 article, that we are making unilateral decisions, that is
16 not the way it works. Everybody knows who the executive
17 agency works and what our responsibilities are and how we
18 have conducted our affairs knows that, the 50 percent error
19 in the "New York Times" applies certainly to that arena
20 there.

21 You have asked also, have we set you up for
22 failure. This is a difficult issue. It always has been a
23 difficult issues, but we at USEC have faced difficult issues
24 since we began in this organization. Just the very nature
25 of being certified has been a more difficult process. It

1 has been a longer process than we all anticipated. These
2 kinds of challenges are consistent with our operations.

3 There is a long commitment by myself personally
4 and by USEC as a corporation to the successful
5 implementation of this deal. We think it makes good
6 business sense. We think it makes good national policy
7 sense and it happens to be a fortunate confluence of both of
8 those issues. To bring this material into the marketplace,
9 we are the only entity that has the financial resources to
10 provide the stability of this deal. We are the only entity
11 that has the technical resources to solve the problems that
12 have been inherent in creating a brand new transaction like
13 this. We are the only entity that has the market
14 penetration to be able to bring the material in and sell it
15 out into the marketplace. That is why we are the executive
16 agent.

17 Now, let me just give you an idea about the
18 technical side.

19 Again, the commentaries, the commentators, the
20 pundits and the professors always were wringing their hands
21 about why wasn't this thing done. Why wasn't this thing --
22 let me just move all this stuff out of Russia and put it
23 here in the United States.

24 Well, unfortunately, it always easy to sit in an
25 ivory tower and make those kinds of observations. But this

1 . had never been done before. It took us over a year meeting
2 bi-monthly with Russians to work out the technical
3 considerations about how this was to be done. Let me give
4 you an example.

5 The Russians asked us -- they said that we cannot
6 meet ASTM specs, which the contract called for. Would you
7 mind if we gave out out-of-spec material? We asked them,
8 well, what is that out-of-spec material? Well, it has
9 plutonium in it. I thought, this is a little problematic.
10 Now, the professors in the ivory towers could say, well,
11 okay, they just decided to say no. But what we did do, we
12 didn't do that.

13 We met bi-monthly with the Russians that first
14 year and came up with ways and used our technical resources
15 to work with them to find a way to bring the material in-
16 spec. It is delivered today according to ASTM regulations.
17 It took us a while to do that. It wasn't easy. That is
18 just one example of meeting the technical capabilities to be
19 able to meet this.

20 The introduction of this material into the
21 marketplace makes good business sense to us. You know, we
22 are in this tough situation to try to run a business, a
23 regulated business but still maintain this responsibility.
24 It is clear that this is an imperative for national
25 security, that the material come out of Russia, that this

1 deal work. We believe that. If we are not involved in it,
2 if we're not involved in it, we're going to see the material
3 on the other side of the fence.

4 We could see the material from our purchasing it.
5 If we don't purchase it, someone else is going to purchase
6 it. We are going to see it in the marketplace.

7 Now, if you were involved with a commodity and you
8 had the opportunity to take this commodity, purchase it and
9 you had the financial wherewithal and you had the technical
10 capability and you had the market penetration to be able to
11 introduce it into the marketplace and do it in a stable way,
12 provide stable pricing, which is a requirement under the
13 suspension agreement and do this in a way that protects the
14 national security, you'd rather do that than have it
15 introduced in an ad hoc manner that has impacts in terms of
16 the marketplace, price stability.

17 I think that it is clear that it makes sense to us
18 that we continue to serve in that role. We want to serve in
19 that role. We think it makes good business sense because if
20 we don't serve in that role, we are going to see it in the
21 marketplace in any event.

22 CHAIRMAN JACKSON: Thank you.

23 COMMISSIONER McGAFFIGAN: Could I just ask one
24 thing?

25 CHAIRMAN JACKSON: Go ahead.

1 COMMISSIONER MCGAFFIGAN: This really maybe goes
2 to our own staff, but there clearly is a dialogue. You've
3 talked about briefing people before, during and after
4 meetings with the Russians. There appears to be a dialogue
5 that goes on, if this is 50 percent correct, perhaps with
6 the senior levels of the Department of Energy as to how much
7 you should exceed the contract this year by.

8 When you cease to be regulated by DOE and come
9 over to us, do we then become the entity that engages in
10 that dialogue --

11 MR. TIMBERS: No, no.

12 COMMISSIONER MCGAFFIGAN: -- or will it continue
13 to be the Department of Energy and the Department of State?

14 MR. TIMBERS: It is actually led by the National
15 Security Council and our interface on a day to day basis is
16 with the State Department. We are supported by the
17 Department of Energy. So, those are the three that are
18 involved in it.

19 There has been completed a memorandum of agreement
20 between USEC, the State Department, National Security
21 Council and Department of Energy exactly about how that
22 dialogue will occur, exactly how the interface would be
23 conducted and also what our rights and responsibilities are
24 and what the rights and responsibilities of the United
25 States are, how changes could be made. It has all been laid

1 out in the memorandum of agreement.

2 So, therefore, it does not involve -- in that
3 regard, it does not involve the NRC. I think that all this
4 memorandum of agreement has done is codify our existing
5 practices of dialogue, communication and consultation.

6 CHAIRMAN JACKSON: I think we will go on.

7 Commissioner Rogers?

8 COMMISSIONER ROGERS: I am curious with respect to
9 what you anticipate DOE's role will be in your long term
10 future in connection with any of the technical that would be
11 of concern to us from a safety point of view?

12 MR. TIMBERS: I think I would defer to George
13 Rifakes on that question.

14 CHAIRMAN JACKSON: Would you speak at the podium
15 or you can come to the table.

16 MR. RIFAKES: As you know, we are still dealing
17 with HEU. That is a DOE responsibility. In NRC space, we
18 are limited to dealing with material that is ten percent or
19 less enriched. Anything in excess of that, DOE will
20 continue to be the regulator.

21 Additionally, there are DOE operations ongoing at
22 the sites. We have an interface with DOE to the extent that
23 interface enters NRC space, obviously the relationship is
24 there. Finally, DOE is the landlord and they have a say on
25 matters of safety in the landlord's sense that we are going

1 to have to comply with.

2 So, the relationship, while NRC will be the
3 nuclear regulator with respect to the material we are
4 producing, the relationship is going to be a tripartite
5 relationship for a long time.

6 COMMISSIONER ROGERS: Will you have to depend upon
7 DOE for doing analyses to back up your responses to any
8 questions that NRC may have?

9 MR. RIFAKES: We don't anticipate that.

10 COMMISSIONER ROGERS: You will be able to be self-
11 contained then?

12 MR. RIFAKES: Yes, self-contained or with
13 contractors or through contractors just like all your other
14 licensees are.

15 COMMISSIONER ROGERS: Well now, since you have a
16 combination of DOE-regulated and NRC-regulated activities on
17 site, how do you visualize keeping those segregated in the
18 sense that, if you really got two styles of regulation and
19 they are always going to be somewhat different, how do you
20 keep those from getting mixed?

21 MR. RIFAKES: Well, there are two styles of
22 regulations. There are two areas where regulation occurs.
23 Staff, your staff and our staff, spend countless hours
24 trying to delineate those in order to assure that we do not
25 do DOE-type activities in a manner that is violative of NRC

1 requirements. I think that has been pretty well handled and
2 it is well documented in the application and in the
3 responses to questions.

4 COMMISSIONER ROGERS: Roughly what percentage of,
5 say, your total activities would be regulated by DOE and
6 what would be regulated by NRC?

7 MR. RIFAKES: Long run, it is going to be a very
8 small percentage. Today, I would believe it's going to be
9 less than ten percent.

10 As you know, we are handling some HEU at
11 Portsmouth. We are feeding it into the cascade in order to
12 change its identity to LEU. That is a DOE requirement. The
13 very massive nature of our operations and of the role of NRC
14 within those operations leads me to believe that it would be
15 clearly less than ten percent, maybe even less than five.

16 Rob, do you want to venture a guess in there?

17 MR. WOOLLEY: I agree with you.

18 MR. RIFAKES: It's going to be very small and over
19 time, as the HEU is disposed of, that will get less and
20 less. Hopefully, some day, there won't be any.

21 COMMISSIONER ROGERS: Fine, thank you.

22 CHAIRMAN JACKSON: Commissioner Diaz?

23 COMMISSIONER DIAZ: Yes, I guess we're going to
24 talk about the same issue now that Commissioner McGaffigan
25 brought it up. From a safety point of view, if we start

1 mixing large amounts of HEU from Russia, is the variability
2 and the composition of the materials -- which I am sure you
3 are experienced -- is it going to pose longer term safety
4 concerns as far as fuel? Are your plans going to be able to
5 essentially homogenize it to the point where it will be
6 indistinguishable?

7 MR. TIMBERS: We receive -- actually, it is always
8 a misnomer to talk about the Russian deals and HEU deals,
9 because we receive low enrich uranium, LEU FOB St.
10 Petersburg. The blending down occurs in Russia. So, the
11 transportation on the high seas and our receipt of it is in
12 low enriched uranium just like we produce, at specific
13 assays that we request. This is in the neighborhood of four
14 to five percent just like we produce out of our plant.

15 When I say that we have worked with the Russians
16 to meet the ASTM specs, it was very important to the long
17 term success of this deal over 20 years that, this material
18 be viewed in the international marketplace as transparent to
19 U. S. material.

20 So, what we are supply is a commodity that is
21 produced in Russia, derived from nuclear weapons HEU. So, I
22 do not think those concerns that you have described apply
23 here because we are going to -- we are receiving and have
24 been receiving since June of 1995 a commodity that looks and
25 acts just like the material that we have. There are small

1 isotopic changes than what we normally produce. That is
2 within the specifications of our contracts with our
3 customers.

4 COMMISSIONER DIAZ: Yes.

5 I'm not concerned about the isotopic enrichment of
6 the uranium. I am concerned about contamination with other
7 materials.

8 MR. RIFAKES: The material meets the ASTM specs
9 for commercial nuclear fuel. Everything they have delivered
10 has been well within that specification.

11 COMMISSIONER DIAZ: All right.

12 MR. TIMBERS: That is why we worked a year with
13 the Russians to insure that did occur. If, in fact, we just
14 said, okay, you don't have to meet ASTM, we would have a 20-
15 year problem. Now, we have spent a year solving that
16 problem, which helps put the deal on a stable, technical
17 basis.

18 COMMISSIONER DIAZ: Okay, thank you.

19 CHAIRMAN JACKSON: Yes?

20 COMMISSIONER McGAFFIGAN: Just to follow up on
21 Nils, you just mentioned a moment ago that you have some HEU
22 at Portsmouth. Is there some HEU that comes in as HEU that
23 is not blended down?

24 MR. TIMBERS: No, this is U. S. HEU.

25 COMMISSIONER McGAFFIGAN: U. S. HEU, okay.

1 So, that you are doing for the U. S. Government?

2 MR. TIMBERS: Yes or material that has been
3 transferred to us.

4 I would like to just make one last comment here.

5 CHAIRMAN JACKSON: One last comment.

6 MR. TIMBERS: It is about the 50 percent rate and
7 I think it is good to put this into context.

8 I personally volunteered and passed on a message
9 to the "New York Times" reporter, if you would like to talk
10 to me. He refused. He did not want to talk to me. So, any
11 time someone writes an article of that sort, where they do
12 not want to talk to the one who is in charge of one side of
13 the transaction and only is giving the view of a few people
14 out of Cambridge, Massachusetts, I think it falls within the
15 50 percent test.

16 CHAIRMAN JACKSON: I think we are not here to
17 debate the quality of press reporting nor are we here to
18 debate U. S. foreign policy within the USEC context. So,
19 I'm going to take it back down to a very basic set of
20 questions.

21 MR. TIMBERS: We welcome that and we welcome our
22 purpose in being here and that is, certification of our
23 gaseous diffusion plants.

24 CHAIRMAN JACKSON: Well, let me just ask you a
25 couple of straightforward questions.

1 My staff tells me that different companies within
2 the Lockheed-Martin group have contracts to operate the
3 gaseous diffusion plants with the USEC on the one hand and
4 also to prepare the upgraded safety analysis reports for DOE
5 on the other. Is the separation of the companies within the
6 group sufficient to avoid any potential conflicts of
7 interest?

8 MR. TIMBERS: Well, George, do you want to?

9 MR. RIFAKES: They have done more than just build
10 a Chinese wall between these two companies. They act very
11 competitively for everything. When we came over and did the
12 transition, Lockheed-Martin Utility Service was advising us.
13 Energy Services, which is the DOE company, was advising them
14 and I can tell you, it was a very, very tough negotiation.
15 Neither side gave any quarter and they have acted that way
16 ever since.

17 CHAIRMAN JACKSON: Okay, thank you.

18 If NRC certifies the two plants, what assurances
19 do we have that you will, in fact, meet your commitments and
20 timetables during the transition period? Let me give a
21 little bit of specificity to it.

22 The NRC staff has mentioned the number of
23 technical areas that have yet to be resolved. Also, the
24 upgraded safety analysis report is likely to add to the list
25 of needed improvements. These actions do have costs

1 associated with them, in fact, can be costly.

2 Has the privatization affected or will it affect
3 your ability or your decision-making relative to the
4 scheduling of these safety improvements?

5 MR. TIMBERS: Well, there are two things. One is
6 the cost and the other is the scheduling relative to
7 privatization. Again, we think the plants are run safely.
8 DOE currently regulates them. There is no question in terms
9 of the exposure and safety to the public employees or to the
10 environment. We view this as an ongoing, continuing basis.
11 As somebody who has had experience on the other side of the
12 fence, I do not necessarily see any difficulty in a
13 privatization that is actually consummated during this
14 transfer period.

15 In terms of the costs, the costs in terms of
16 completing this regulatory process has been worked out with
17 the DOE representing the United States Government about how
18 the costs are allocated between the U. S. Government and
19 USEC, as a private corporation. So, on a going forward
20 basis, a company or investors who would purchase USEC would
21 understand clearly that delineation of costs and
22 responsibilities.

23 CHAIRMAN JACKSON: Okay.

24 Can USEC negotiate the upgraded safety analysis
25 report with DOE or must you accept whatever DOE provides.

1 MR. RIFAKES: I'm not sure negotiation is a fair
2 characterization. DOE has the responsibility to prepare it.
3 We, like Commission staff, have opportunities to comment and
4 where we have disagreement, if we have a technical basis for
5 that disagreement and it is sound, I'm sure that DOE would
6 accept a change.

7 CHAIRMAN JACKSON: I actually have a question for
8 DOE, whoever the representative is in the audience. Is the
9 upgraded safety analysis report on schedule? Will it
10 definitely be issued in February of next year?

11 MR. PARKS: I am Joe Parks, Oak Ridge Operations
12 Office.

13 The answer is yes to that question.

14 CHAIRMAN JACKSON: My understanding is, we are to
15 get copies of that from you at the same time that it is
16 originally provided to USEC; is that correct?

17 MR. PARKS: We have made that commitment.

18 CHAIRMAN JACKSON: Okay, thank you.

19 Any further questions from the commissioners?

20 [No response.]

21 CHAIRMAN JACKSON: If not, thank you, Mr. Timbers.
22 I think we will hear from the NRC staff.

23 MR. TIMBERS: Thank you.

24 CHAIRMAN JACKSON: Mr. Taylor.

25 MR. TAYLOR: Good morning.

1 With me at the table today are Carl Paperiello,
2 director of the Office of Nuclear Material Safety and
3 Safeguards, Bill Axelson on my far right, acting deputy,
4 Regional Administrative Region III, John Hickey, the chief
5 of the Enrichment Branch and Walt Schwink, the section chief
6 for the Enrichment Standards Section.

7 Also, I would like to note that our two senior
8 residents are here today. I will ask them to stand, Charlie
9 Cox from the Portsmouth plant and Ken O'Brien from the
10 Paducah plant.

11 The staff has been working for over three years to
12 establish the regulatory framework and complete the initial
13 certification of the USEC enrichment plants. When we
14 briefed you last March, there were still some significant
15 safety issues which required resolution before the staff
16 could certify the plants. Those issues have now been
17 satisfactorily addressed by USEC.

18 As described in our Commission paper, SECY 96-
19 180, the staff is now prepared to move towards the issuance
20 of the initial certification based on its finding that there
21 is reasonable assurance that USEC can continue to operate
22 the enrichment plant safely and in compliance with NRC
23 requirements.

24 Dr. Paperiello will now brief you on how the staff
25 has reached its conclusions and how it plans to continue to

1 implement the initial certification process.

2 Carl.

3 DR. PAPERIELLO: Good morning.

4 After the Commission briefing in March and the
5 status of the certification of U. S. Enrichment Corporation,
6 the Commission directed the staff in a memorandum dated
7 April 3rd that, after the certification process is completed
8 and prior to issuing the certification, the staff is to
9 prepare a paper summarizing safety assessments and be
10 prepared to brief the Commission. The Commission urged the
11 staff to move ahead as expeditiously as possible, but at the
12 same time, to insure that safety issues were not overlooked.

13 The methodology used to resolve significant safety
14 issues and how it unfolded into the compliance plans in the
15 certification process needed to be clearly delineated and
16 documented. My staff and I are here to respond to these
17 directions.

18 We will review the legislative direction from
19 Congress, particularly since the USEC Privatization Act of
20 1996 passed since our last briefing. We will discuss our
21 implementing regulations and briefly review the history of
22 certification activities. I will then ask Mr. Axelson to
23 briefly discuss Region III's activities at the gaseous
24 diffusion plants. Then I will discuss the resolution of the
25 significant safety issues raised at the last Commission

1 meeting. We will discuss our interaction with other
2 government entities and the public and then I will discuss
3 the basic mechanics of the issuance of the certification
4 documents and the actions.

5 Can I have slide number two?

6 [Slide.]

7 DR. PAPERIELLO: The Energy Policy Act of 1992 did
8 a number of things relevant to the gaseous diffusion plants.
9 U. S. Enrichment Corporation was established to lease and
10 operate the gaseous diffusion plants. The Department of
11 Energy was responsible for preexisting conditions at the
12 gaseous diffusion plants and any costs associated with those
13 preexisting conditions.

14 The law applied the antitrust laws, OSHA
15 requirements and Section 206, reporting defects, what we
16 would call Part 21 under our regulations and Section 211,
17 employee protection of the Energy Reorganization Act to the
18 U. S. Enrichment Corporation.

19 The NRC was required within two years to establish
20 standards for certification of gaseous diffusion plants.
21 Annually, the NRC, consulting with DOE and the EPA must
22 report to Congress on the status of health, safety and
23 environmental conditions at the gaseous diffusion plants.
24 NRC shall establish a certification process to ensure U. S.
25 Enrichment Corporation complies with NRC regulations.

1 The law provided for annual certification of
2 gaseous diffusion plants. It assigned environmental
3 regulation of the gaseous diffusion plants to the United
4 States Environmental Protection Agency and authorized U. S.
5 Enrichment Corporation to be the U. S. agent for Russian
6 special nuclear material.

7 The certification process was established by the
8 Commission in Title 10, Code of Federal Regulations,
9 Part 76, issued in September of 1994. The regulations
10 implement the legislation. For example, it requires us to
11 consult with the EPA prior to doing the certification. It
12 basically, besides our normal requirements, broadens all the
13 details of the legislation. It provided for a U. S.
14 Enrichment Corporation application for certification and a
15 DOE-prepared compliance plan.

16 We have reviewed the submittals that were required
17 by 10 CFR 76. We have held the public meetings required by
18 the regulation. We have solicited input from the
19 appropriate federal, local and state governmental
20 organizations that are required by Part 76. We have
21 prepared a compliance evaluation report, detailing how the
22 application and the compliance plan meets our regulations.
23 We are at the point to issue an affirmative decision on the
24 certification.

25 May I have the next line?

1 The latest legislation provides for the
2 privatization of the United States Enrichment Corporation.
3 There are some things that changed.

4 It extends the NRC certification interval for up
5 to five years. It gives the NRC exclusive responsibility
6 for regulating radiological hazards. OSHA has the
7 responsibility for non-radiological hazards and requires a
8 memorandum of understanding between OSHA and the NRC. It
9 gives the NRC civil penalty authority. It prohibits foreign
10 control of U. S. Enrichment Corporation.

11 It authorizes one-step licensing of AVLIS, atomic
12 vapor laser enrichment. It specifies that judicial
13 challenges to the NRC certification decisions and rules will
14 be in the Federal Courts of Appeal rather than the federal
15 District Courts. It requires upon request that DOE accept
16 low-level waste for disposal from the gaseous diffusion
17 plants and other NRC-licensed enrichment facilities.

18 It does not appear to affect the certification
19 schedule. We are working to implement the provisions of the
20 Privatization Act, such as, changing the enforcement policy
21 to recognize the -- it will apply to the gaseous diffusion
22 plants and to amend Part 76 to change the annual
23 certification period and other provisions of the act.

24 Can I have the next slide?

25 [Slide.]

1 DR. PAPERIELLO: The original certification
2 application was submitted in April of 1995, but found so
3 inadequate that it was not accepted for review. After
4 working with the USEC staff for several months, the
5 applicant resubmitted a revised application in September of
6 1995. After review and additional revision, the application
7 is now considered complete and acceptable.

8 The initial compliance plan was submitted in
9 November of 1995, but USEC also submitted numerous
10 exceptions to the plan. After several revisions, we find
11 the compliance plan is now acceptable.

12 As part of the application, the U. S. Enrichment
13 Corporation has submitted technical safety requirements.
14 These will replace the DOE operational safety requirements
15 currently in place. These requirements play about the same
16 role as technical specifications in reactor licensing and
17 include safety limits, limiting conditions for operation,
18 surveillance requirements, administrative controls and many
19 of the same things that one finds in reactor technical
20 specifications.

21 Because the plants currently operate under DOE
22 requirements, they will do so until the NRC assumes
23 jurisdiction.

24 I would now like to turn over to Mr. Axelson, the
25 acting deputy regional administrator for Region III, who

1 will briefly discuss regional activities.

2 MR. AXELSON: Thank you, Carl.

3 Some additional background information. I will
4 briefly discuss what the Region's role has been since the
5 Energy Policy Act of 1992. First, we were extensively
6 coordinating all of our regional activities with
7 headquarters. We staffed each gaseous diffusion plants with
8 a senior resident and a resident inspector and we organized
9 a regional branch to be in alignment with headquarters
10 including consolidation of all other Region III fuel
11 facility activities into one branch.

12 During this interim period, we provided extensive
13 training to our inspection staffs, both headquarters and
14 region, including special training for some of our key
15 senior managers. We trained on unique areas of gaseous
16 diffusion operation, chemical safety, UF6 handling safety,
17 cylinder testing and certification inspections, some new-
18 type training that we were not familiar with. Our resident
19 inspectors have been extensively involved with the
20 certification process, assisting headquarters staff
21 continuously. We think the resident inspectors brought
22 field operational insights into the certification process
23 which added value.

24 Our inspection staffs, both headquarters and
25 region, have done some limited benchmarking at other fuel

1 facilities. We senior residents routinely visit both
2 facilities as benchmarking and also visited a gaseous
3 diffusion plant in France. We plan to do some more
4 benchmarking at other fuel facilities in the U. S.

5 During the interim period, we spent considerable
6 time in the field learning the gaseous diffusion plants and
7 generally assessing plant performance. Our future
8 inspection focus, both the region and headquarters, will be
9 closely monitored to compliance plan, closure and evaluate
10 the facility's readiness to make the transition from DOE to
11 NRC regulatory jurisdiction over the next 180 days. We will
12 be paying particular attention to USEC training and
13 implementation of the new tech spec requirements.

14 Thank you, Carl.

15 DR. PAPERIELLO: Thank you.

16 Can I have the next slide?

17 [Slide.]

18 DR. PAPERIELLO: At our March 1996 briefing, we
19 told the Commission there were significant safety issues
20 that still required resolution. These involved worker
21 protection, quality assurance, technical safety
22 requirements, responsibility for DOE material in USEC lease
23 space, elevated enrichment levels, seismic safety and the
24 safety analysis report upgrade. They have been resolved.
25 The Commission paper presents in the attachment how they

1 were resolved. Let me briefly discuss them.

2 Worker protection. We have required USEC to have
3 technical safety requirements to ensure protection of the
4 workers at the gaseous diffusion plants from death or
5 serious injury, from potential accidents involving either
6 uranium hexafluoride or hazardous chemicals or potential
7 criticality. Essentially, the way that has been done is,
8 technical specifications that relate to either releases of
9 material or alarms or alarms not functioning, in addition to
10 certain mechanical actions, also have limits and
11 specifications on what employees are allowed to do, areas
12 they are allowed to enter, protective equipment they must
13 use.

14 For example, if there is a work area in which
15 alarms are inoperable. So, that is basically how the worker
16 protection is worked into the technical safety requirements.

17 Another issue is quality assurance. Part 76
18 requires a QA program for safety systems and their support
19 systems. Revision 2 of the application, did not provide
20 adequate QA for certain safety systems, such as those
21 concerning uranium hexafluoride confinement, criticality
22 protection, prevention and fire protection. The QA program
23 described in the current versions of the application and the
24 compliance plan is acceptable to the staff and has
25 application of QA to these areas.

1 Third, technical safety requirements. Many of the
2 technical safety requirements that USEC submitted in earlier
3 versions of its application were not acceptable. They were
4 the subject of numerous meetings and, frankly, it was the
5 last issue that was closed out. It was not until earlier
6 this month that we had a satisfactory set of TSRs. I asked
7 the staff how the numbers compared and I have some detailed
8 numbers, but roughly there are about half as many TSRs as
9 there were OSRs.

10 Of course, a number of the OSRs dealt with what
11 DOE refers to as asset protection and not just safety
12 issues. A number of what was in the OSRs wound up going
13 into procedures rather than in the TSRs.

14 CHAIRMAN JACKSON: Carl, perhaps you'd better for
15 the Commission's edification delineate what the TSRs are.
16 You sort of mentioned --

17 DR. PAPERIELLO: They are technical --

18 CHAIRMAN JACKSON: -- versus the OSRs.

19 DR. PAPERIELLO: Okay.

20 Operational -- DOE had operational safety
21 requirements on the gaseous diffusion plants. They, again,
22 were like the technical specifications for a reactor,
23 although some of them don't -- not just with safety, but
24 also the protection of their investment in the plant. Of
25 course, they map one on one. If you read them, they are

1 like tech specs. They are multiple pieces. They are not an
2 exact mapping. We wind up with about half as many TSRs or
3 tech specs as we had OSRs.

4 Is that responsive?

5 CHAIRMAN JACKSON: I thought you just said the
6 OSRs were like tech specs.

7 DR. PAPERIELLO: Well, they did not have tech
8 specs, but they act like tech -- there are limits. On a
9 reactor, you have a safety limit. You have a limit --

10 CHAIRMAN JACKSON: No, I understand that.
11 The OSRs are like tech specs?

12 DR. PAPERIELLO: Right.

13 CHAIRMAN JACKSON: The TSRs are?

14 DR. PAPERIELLO: Sort of like tech specs, too.

15 CHAIRMAN JACKSON: Also.

16 DR. PAPERIELLO: Only in DOE's space, they are
17 OSRs.

18 When we started this in April of 1995, we had only
19 one --

20 CHAIRMAN JACKSON: I'm sorry.

21 [Laughter.]

22 DR. PAPERIELLO: I'm sorry.

23 CHAIRMAN JACKSON: Never mind. I hope we have the
24 picture.

25 DR. PAPERIELLO: The TSR for autoclaving,

1 autoclave testing was of particular concern. This was
2 discussed at the last Commission meeting.

3 CHAIRMAN JACKSON: Yes.

4 DR. PAPERIELLO: Autoclaves are used to safely
5 confine uranium hexafluoride cylinder-related accidental
6 releases. While the cylinders are heated to feed their
7 contents into the enrichment processor, carry out sampling
8 out transfer operations. Essentially, it is a steam jacket
9 around a big cylinder. There are 13 autoclaves at
10 Portsmouth and 22 at Paducah. The autoclaves have not been
11 subject or had not been subject to tests at accident
12 pressure since they were initially installed.

13 The safety concern is whether autoclaves can
14 perform as assumed if there is an accidental release of UF6.
15 At issue was the proposed pressure level of tests which was
16 only a fraction of the accident pressure and the frequency
17 of the tests. USEC initiated limited confirmatory tests at
18 accident pressures in early spring of 1996 and will run such
19 tests quarterly. However, staff deemed these tests
20 inadequate because certain important valves were not being
21 tested in the current equipment configuration.

22 The compliance plan now commits U. S. Enrichment
23 Corporation to expeditiously modify the autoclaves and
24 testing procedures so that adequate tests can be performed.

25 CHAIRMAN JACKSON: What does expeditious mean?

1 DR. PAPERIELLO: Mr. O'Brien, you have the
2 details.

3 MR. O'BRIEN: Ken O'Brien, I'm the senior resident
4 at the Paducah plant.

5 Expeditiously means it will be accomplished -- the
6 time table for Paducah is by March of this year when we take
7 over. The time table for Portsmouth, for some of the other
8 valves is a little longer. However, they have developed
9 another methodology which will find with a reasonable
10 assurance that they will operate in the interim.

11 DR. PAPERIELLO: DOE material in USEC lease space.
12 For many years, certain DOE-owned materials have been stored
13 in parts of several process buildings of both gaseous
14 diffusion plants. These materials include both
15 radioactively contaminated wastes and potentially
16 salvageable equipment and materials. In some cases, the
17 quantities of uranium are undetermined. The matter will be
18 resolved by installing appropriate signs and markers to
19 identify and delineate such areas.

20 The areas --

21 CHAIRMAN JACKSON: How many such areas are there?

22 DR. PAPERIELLO: Mr. O'Brien, what are the areas
23 that are going to be released and returned?

24 MR. O'BRIEN: Throughout all the buildings that
25 they use for the cascade, there are a multitude of areas.

1 They are anywhere from ten square feet to hundreds of square
2 feet that encompass previously maintained materials or old
3 equipment or wastes that the DOE presently has and have to
4 take care of.

5 CHAIRMAN JACKSON: Are there going to be any
6 efforts to consolidate the material or for DOE to remove the
7 material?

8 MR. O'BRIEN: Right now, the issue of removing it
9 is a DOE issue. The issue of consolidation is one they have
10 been looking at as part of the overall process of looking at
11 it. They have actually done some repackaging of some of the
12 material to make it easier for both maintaining it and
13 inventory on an ongoing basis.

14 CHAIRMAN JACKSON: Is there any possibility of any
15 of that material radiologically contaminating other areas
16 under USEC's control?

17 MR. O'BRIEN: That is a sensitivity that we have
18 more monitoring in on an ongoing basis, based upon
19 inspection activities in the field.

20 CHAIRMAN JACKSON: If that is the case, who then
21 would be responsible for the cleanup and how would we
22 enforce it?

23 MR. O'BRIEN: Right now, DOE and USEC have a memo
24 regarding the interaction between the two different
25 facilities and the material stored in the facilities. That

1 would be something that they would have to work out between
2 the two of them to ensure that safety is maintained, which
3 is discussed in the certification process.

4 CHAIRMAN JACKSON: Has the material been
5 completely characterized?

6 MR. O'BRIEN: It depends on your definition of the
7 word characterized.

8 CHAIRMAN JACKSON: You can use your definition.

9 [Laughter.]

10 MR. O'BRIEN: Based upon my definition, there is
11 an adequate understanding right now of what the material is
12 to ensure that there is not an immediate safety concern,
13 yes.

14 CHAIRMAN JACKSON: Okay, thank you.

15 MR. O'BRIEN: You are welcome.

16 DR. PAPERIELLO: The areas in which DOE material
17 is stored will be deleased and returned to DOE, which has
18 agreed to assume responsibility including regulatory
19 responsibility for the areas for the contained material.
20 Note that, DOE still owns the site and continues to conduct
21 its own self-regulated operation separate from USEC in both
22 leased and deleased areas. This situation will require
23 special attention and coordination after certification to
24 assure that DOE activities do not negatively impact the
25 safety of USEC operations regulated by the NRC.

1 Elevated enrichment levels. USEC has requested
2 the certification of the Portsmouth plant at uranium
3 enrichment levels of ten percent or less. By doing so, it
4 avoids more criticality protection and safeguards, physical
5 security and material control and accountability
6 requirements accompanying possession of highly enriched
7 uranium. Currently, unplanned enrichment in small amounts
8 between ten and 20 percent is occurring in the process at
9 the Portsmouth gaseous diffusion plants, caused by both the
10 USEC enrichment process and DOE blending down of HEU.

11 You insert the material into the cascade and with
12 the way the cascades work, this is unavoidable. The issue
13 is resolved by having USEC agree to establish and maintain
14 additional safety and safeguards measures as long as the
15 down-blending program continues in that portion of the
16 cascade where this is occurring.

17 Seismic safety. In 1995, DOE identified
18 structural weaknesses in two of the four main processing
19 buildings at the Paducah plant. Now, the Paducah plant is
20 located in the New Madrid area, you know, in that part of
21 the United States. DOE ordered USEC to make plant
22 modifications to improve seismic capability. Compensatory
23 safety measures were also ordered, including operating
24 pressures and personnel access restrictions until plant
25 modifications could be completed.

1 Current schedules call for completion of plant
2 modifications by late 1997. Since the modifications will
3 not be completed before initial certification, the
4 continuation of interim and compensatory measures and
5 completion of plant modifications have been incorporated
6 into the compliance plan for the Paducah plant.

7 CHAIRMAN JACKSON: Excuse me, Dr. Paperiello.

8 Did the NRC staff conduct a separate analysis of
9 the DOE-ordered modifications and the interim compensatory
10 measures? I mean, how did we determine that the
11 modifications and interim measures were adequate?

12 DR. PAPERIELLO: John?

13 MR. HICKEY: Well, we did not conduct a completely
14 independent analysis, but we reviewed the analysis that was
15 done and satisfied ourselves that it was a reasonable and
16 thorough analysis and that the modifications were
17 appropriate and that the plan was appropriate.

18 CHAIRMAN JACKSON: So, we determined that these
19 modifications and changes were sufficient for Paducah to
20 operate until this December, 1997 updated seismic hazard
21 report?

22 MR. HICKEY: Correct.

23 COMMISSIONER ROGERS: Just on that, in reading
24 your slide, on this bullet you say USEC to submit updated
25 seismic analysis by December, 1997. What you just seem to

1 say to me is, we know what is in that analysis; is that
2 right?

3 MR. HICKEY: That is referring to the actual
4 estimate of the seismic risk at the site, not the mechanical
5 and structural fixes to the plant.

6 COMMISSIONER ROGERS: Right.

7 MR. HICKEY: The analysis used data up through
8 1985 and more data has come in since then. So, we want an
9 updated analysis that reflects the newer seismic data that
10 has come in since 1985.

11 DR. PAPERIELLO: Well, right now, the plants will
12 only withstand an earthquake acceleration -- these
13 particular plants where they need the seismic upgrade -- of
14 point .05g, which is estimated to be an 80-year return
15 earthquake. The plants were believed to and were expected
16 in the 1985 safety analysis report to withstand a 250-year
17 return earthquake, which was an acceleration of .15g.
18 What we are doing is -- and what the upgrade is, is to
19 upgrade the plant to withstand that stress.

20 There have been some issues raised that more
21 recent seismic data which is possessed by the U. S.
22 Geological Survey, but which is not published and not peer
23 reviewed, may suggest somewhat higher accelerations on a
24 250-year return frequency. So, the decision to be made was,
25 do we wait until that day to get analyzed, put off any

1 upgrade for another couple of years which may make no
2 difference or do we do the immediate repair now. Get the
3 plant up to the .15g thing and then what do you do with the
4 new data.

5 We decided that if it makes a big difference and
6 you can justify spending an additional money and adequate
7 protection, using the kind of cost benefit that we would use
8 in backfit, that is how we would make the decision on how to
9 use the new data. It is really a trade off. Do we turn
10 around and wait a couple more years and do nothing or do we
11 upgrade now and then relook at the new data and see whether
12 or not they make a substantial difference. If they make a
13 substantial difference, then you will do more upgrade. If
14 it does not make a substantial difference, you won't.

15 CHAIRMAN JACKSON: Will the updated seismic hazard
16 analysis incorporate or be required to incorporate this
17 post-1985 data?

18 MR. HICKEY: Yes.

19 DR. PAPERIELLO: Yes.

20 CHAIRMAN JACKSON: Okay.

21 We are convinced that the compensatory measures
22 and the changes, the modifications that have already been
23 made are sufficient to ensure adequate protection.

24 DR. PAPERIELLO: Yes, because you run the cascades
25 at sub-atmospheric limits to release. We have done the

1 accident analysis. We had it submitted. We did an
2 independent analysis and the off-side effects are very
3 limited.

4 Finally, the upgrade of the safety analysis
5 report. Since 1985, DOE has initiated various efforts to
6 confirm assumptions, correct errors, address weaknesses and
7 reduce uncertainty in the existing SAR for each gaseous
8 diffusion plant, with a completion schedule date of February
9 of 1997. The staff is requiring that, within six months
10 after DOE issuance of the upgraded safety analysis report
11 and any associated findings, USEC must review and submit
12 them to the NRC along with proposed resolutions of findings
13 and any proposed certificate modifications.

14 There are assumptions made in the application that
15 this SAR upgrade is going to have to confirm. Obviously, if
16 it does not confirm them, that will have to be reconciled.

17 The upgraded SARs will be reviewed and approved by
18 the NRC and then will constitute the operating safety basis
19 for the gaseous diffusion plants. This matter is a
20 compliance plan item.

21 Can you show the next slide?

22 [Slide.]

23 DR. PAPERIELLO: We have conducted all the
24 coordination with other federal, state and local agencies
25 and members of the public required by the regulations. We

1 received 11 comments letters, including those from two EPA
2 regions which were response to the consultation requirements
3 of Part 76. The compliance evaluation reports address all
4 the comments received in detail.

5 Most of the issues most frequently raised involve
6 matters addressed in the compliance plan, such as, seismic
7 issues and emergency preparedness or addressed by law, such
8 as, disposal of waste, principally depleted uranium tails
9 and civil penalty authority. This is not meant to be all-
10 inclusive, but when I read through the comments and sort of
11 made check marks on how many appeared most often, they were
12 the ones that appeared most often. We have addressed every
13 comment that we received in the compliance evaluation
14 report.

15 The next slide.

16 [Slide.]

17 DR. PAPERIELLO: We completed the required
18 coordination with EPA and OSHA and we signed the memorandum
19 of MOU with OSHA on July 26th of 1996.

20 Next slide.

21 [Slide.]

22 DR. PAPERIELLO: Part 76.62(a) provides that upon
23 finding of compliance with the Commission's regulations for
24 issuance of a certificate and/or approval of a compliance
25 plan, the director of the Office of Nuclear Material Safety

1 and Safeguards shall issue a written decision explaining the
2 decision. The director may issue a certificate of
3 compliance covering those areas where the corporation is in
4 compliance with applicable Commission requirements and
5 approve a compliance plan for the remaining areas, if any,
6 of non-compliance.

7 I am ready to take the actions that are specified
8 in that regulation.

9 CHAIRMAN JACKSON: I think that your slide
10 relative to issuing the actual certificates of compliance by
11 August 30th should be verbally corrected relative to what is
12 required.

13 DR. PAPERIELLO: Yes.

14 After we submitted the paper to the Commission,
15 the Office of General Counsel informed us that they believed
16 that the certificate of decision should be issued first and
17 then after the 15-day comment period, that the certificate
18 of compliance be issued if there were no comments.

19 May I have the next slide?

20 [Slide.]

21 DR. PAPERIELLO: I would propose to issue the
22 "Federal Register" notice with the director's decision. I
23 would also issue a proposed compliance certificate and the
24 compliance evaluation report for each plant. The compliance
25 certificate has certain requirements in it, generally very

1 short, the usual tie-down conditions. The corporation has
2 to conduct its operations in accordance with the statements
3 and representations in the certificate application and in
4 the compliance plan.

5 They have to conduct operations in accordance with
6 the technical specifications requirements. It will become
7 effective on March 3, 1997. It is exempted from special
8 authorizations, as noted in Chapter 1, Section 1.8 of the
9 Safety Analysis Report. What that really deals with is
10 labeling containers.

11 Part 20 requires every container of radioactive
12 material to bear a conspicuous label. It is rather normal
13 for us to exempt fuel facilities and I even believe
14 reactors, but I certainly know fuel facilities. Every
15 container of radioactive material does not have to be
16 labeled with radioactive material. Basically, you label the
17 whole facility, the area in which the material is used, the
18 containers of a certain size and diminish that contain
19 radioactive material.

20 The second exemption is from the requirements of
21 10 CFR 7631 and 7636, requiring the submittal of an annual
22 renewal. What we have done is, condition the license to
23 make it reflect what is in the recent law, rather than what
24 is in the regulations. Of course, we are amending the
25 regulations to conform with the new law.

1 We are proposing that the certificate shall run
2 through the end of 1998 and the renewal application will be
3 filed in April of 1998. So essentially, we are looking at
4 the initial certification for two years. The logic behind
5 that is, most of the compliance plan items will be complete
6 by 1998. That provides a good opportunity to renew the
7 certificate, most likely, for a longer period of time.

8 Can I have the next slide?

9 [Slide.]

10 DR. PAPERIELLO: There is a limited 15-day appeals
11 process for the director's decision. The appeal is limited
12 to either the U. S Enrichment Corporation or any person
13 whose interests may be affected and who has either provided
14 written comments in response to previous "Federal Register"
15 notice or provided oral comments at public meetings. The
16 person must file a petition with the Commission within 15
17 days after the "Federal Register" notice publication. The
18 decision becomes final unless Commission grants the petition
19 for review or otherwise acts within 60 days after the
20 publication of the "Federal Register" notice.

21 If no petition is received in the designated 15-
22 day period, I propose to issue the final certificates.

23 Next slide.

24 [Slide.]

25 DR. PAPERIELLO: Power reactor licensing. There

1 was a preoperational testing program and usually a shakedown
2 period prior to licensing when the licensee would operate
3 under its proposed technical specifications prior to initial
4 licensing. That is to find out whether they work, if people
5 trained and are used to operating under those requirements.

6 In the case of the gaseous diffusion plants, they
7 are operated under DOE's regulations and DOE's operational
8 safety requirements. These are similar but not identical to
9 the NRC's technical safety requirements. At USEC's request,
10 we had planned a phase-in period of 120 days in order to
11 revise procedures and, more importantly, train the staff
12 during this transition period.

13 CHAIRMAN JACKSON: Does that mean that DOE will
14 have the enforcement authority --

15 DR. PAPERIELLO: Yes.

16 CHAIRMAN JACKSON: -- or we will have certified
17 the plants?

18 DR. PAPERIELLO: We will have certified, but to
19 become effective on March 3rd. In the interim, during the
20 transition period, DOE regulates and has enforcement
21 authority.

22 On August 16th, the USEC informed me that 120
23 days, based on recent experience, was probably too short for
24 the process and 180 days was requested. After consulting
25 with DOE who decided that that was -- if we agreed, that was

1 reasonable, we decided that the certificate's effective date
2 would be set at March 3rd as the date for the NRC to assume
3 jurisdiction. We originally proposed, I think,
4 December 29th.

5 We have NRC resident inspectors at the site and
6 they have been there since 1994. They will be inspecting
7 implementation of compliance plan items, actions during the
8 transition period.

9 The last slide.

10 [Slide.]

11 DR. PAPERIELLO: We have developed a certification
12 process and a regulatory basis for making required findings
13 on the application and the compliance plan. We believe that
14 the application and the compliance plan provide for
15 continued safe operation of the gaseous diffusion plants and
16 the staff is ready to issue the initial certification
17 decision. We are also prepared to assume regulatory
18 oversight from DOE following the transition period.

19 In addition to the summary shown here, I want to
20 tell you that my staff will prepare the following:
21 procedures for conducting the annual assessments for
22 Congress, the backfitting procedures, if need, if we need to
23 backfit and a recertification standard review plan. These
24 will be issued as similar procedures for analogous
25 activities at reactors or fuel facilities, as appropriate.

1 Thank you.

2 CHAIRMAN JACKSON: Thank you, Dr. Paperiello.

3 I think that the recertification standard review
4 plan is very important from the point of view of lessons
5 learned.

6 DR. PAPERIELLO: Yes.

7 CHAIRMAN JACKSON: You had spoken with the
8 Commission about that and certainly with me at an earlier
9 date. In fact, will that be in place in a time frame that
10 is timely --

11 DR. PAPERIELLO: Definitely.

12 CHAIRMAN JACKSON: -- for the certification?

13 DR. PAPERIELLO: Definitely.

14 CHAIRMAN JACKSON: Okay.

15 So, there will be sufficient time to complete the
16 recertification decision by December of 1998?

17 DR. PAPERIELLO: That's right.

18 CHAIRMAN JACKSON: Okay.

19 Commissioner Rogers?

20 COMMISSIONER ROGERS: No, I think all of my
21 questions have been dealt with.

22 CHAIRMAN JACKSON: Commissioner Diaz?

23 COMMISSIONER DIAZ: No questions.

24 CHAIRMAN JACKSON: Well, the Commission would like
25 to thank the staff and Mr. Timbers for an excellent briefing

1 on the results of the safety assessment for USEC's gaseous
2 diffusion plants. I compliment the staff for your diligent
3 efforts in evaluating USEC's certification application as
4 well as for preparing to take over the regulatory oversight
5 and bringing this first certification process to closure.

6 It is new for us and I am sure it is new for USEC.
7 So, the Commission would also like to thank Mr. Timbers for
8 his presentation as well as the responsiveness of the
9 Department of Energy in attending and answering questions at
10 this briefing.

11 The Commission is being asked to approve by
12 negative consent the issuance by August 30, 1996 of the
13 certification and the follow-on period, the certificates of
14 compliance for the USEC's two gaseous diffusion plants. So,
15 I encourage my fellow commissioners and myself to review the
16 matter expeditiously relative to those dates.

17 I would note that, once the plants are certified,
18 there are still a number of issues that must be resolved
19 both during the transition phase from DOE to NRC
20 jurisdiction. Then following receipt of the safety analysis
21 report upgrade in early 1997 that we discussed, that the
22 USEC will have to make a determined effort to implement the
23 needed changes in a timely manner.

24 So, again, I thank everyone. Unless there are
25 further comments, we are adjourned.

1 [Whereupon, at 11:24 a.m., the briefing was
2 concluded.]
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CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: BRIEFING ON CERTIFICATION OF USEC -
PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Wednesday, August 28, 1996

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Michele Sward

Reporter: Mark Mahoney



**U.S. ENRICHMENT CORPORATION
GASEOUS DIFFUSION PLANTS CERTIFICATION:
DIRECTOR'S DECISION**

**Staff Presentation to the Commissioners
August 28, 1996**

OVERVIEW

- **Background**
- **Resolution of significant certification issues**
- **Public comments and coordination with other government agencies**
- **Certification documents and actions**

BACKGROUND

- **Energy Policy Act of 1992**
 - **Established the U.S. Enrichment Corporation to lease and operate DOE gaseous diffusion plants (GDPs)**
 - **Directed NRC to issue standards and regulate USEC through annual certification**
- **Certification Process**
 - **NRC issued Part 76 in September 1994**
 - **Part 76 requires USEC to submit an application and a DOE-prepared compliance plan**
 - **Staff reviewed submitted materials against Part 76**
 - **Staff held public meetings, solicited public comment**
 - **NMSS Director is prepared to issue initial decision**

BACKGROUND (CONTINUED)

- **USEC Privatization Act of 1996**
 - **Provides for privatization of USEC**
 - **Extends NRC certification interval up to 5 years**
 - **Requires NRC/OSHA Memorandum of Understanding**
 - **Gives NRC civil penalty authority for USEC**
 - **Prohibits foreign control of USEC**
 - **Additional miscellaneous provisions**
- **Staff is implementing provisions of the Privatization Act. This does not affect certification schedule.**

BACKGROUND (CONTINUED)

- **USEC submitted application in April 1995. The staff formally rejected it by letter dated May 5, 1995, following consultation with the Commission.**
- **USEC submitted revised application in September 1995 and DOE-prepared compliance plan in November 1995**
- **Staff review resulted in additional revisions**
- **Questions now satisfactorily answered and appropriate changes incorporated into application and compliance plan**
- **DOE currently regulates plants and will continue to do so until NRC assumes jurisdiction**

SIGNIFICANT ISSUES THAT REQUIRED RESOLUTION

- **Worker protection**
- **Quality assurance**
- **Technical safety requirements**
- **DOE-owned material in USEC space**
- **Elevated enrichment levels**
- **Seismic safety**
- **Safety analysis upgrade**

RESOLUTION OF SIGNIFICANT ISSUES

- **Worker protection: USEC submitted revised technical safety requirement (TSR)**
- **Quality Assurance (QA): Areas of concern - UF6 confinement, criticality prevention, and fire protection - now adequately described in current application and compliance plan**
- **Technical Safety Requirements: Now adequately described in application and compliance plan. In the case of the autoclave TSR, USEC committed to expeditious modification of equipment and procedures so that adequate tests can be performed.**

RESOLUTION OF SIGNIFICANT ISSUES (CONTINUED)

- **DOE-Owned Material in Leased Space:** Areas will be removed from the USEC lease, identified and marked, and responsibility for regulation will remain with DOE.
- **Elevated Enrichment Levels:** USEC agreed to impose increased safety and safeguards measures

RESOLUTION OF SIGNIFICANT ISSUES (CONTINUED)

- **Seismic Safety at Paducah: DOE-ordered structural improvements to be completed by late 1997; compensatory measures to remain in place until modifications complete. USEC to submit updated seismic analysis by December 1997. Any needed further modifications to be under the provisions of §76.76, "Backfitting."**
- **Upgrade of Safety Analysis Report: To be completed by DOE February 1997, followed by USEC review. USEC to submit report, findings, and proposed amendment to certificate 6 months later.**

PUBLIC COMMENTS AND COORDINATION WITH OTHER AGENCIES

- **Staff has publicized certification process and coordinated with other agencies**
 - **Public, both general and local to plants**
 - **State**
 - **DOE, EPA, and OSHA**
- **Comments consisted of 11 comment letters, plus oral comments transcribed from two public meetings**
- **Comments did not raise new issues and are addressed in staff's Compliance Evaluation Reports to be available in the Public Document Rooms**

PUBLIC COMMENTS AND COORDINATION WITH OTHER AGENCIES (CONTINUED)

- **Coordinated with EPA as required by law; no significant issues from EPA**
- **Coordinated with OSHA as required by USEC Privatization Act**
 - **Worked to avoid unnecessary duplication of regulatory effort at plants**
 - **Signed memorandum of understanding with OSHA on July 26, 1996**

STAFF POSITION

- **On basis of commitments in current revised application and compliance plan, staff believes USEC can operate GDPs such that:**
 - **Public health and safety will be adequately protected**
 - **Common defense and security will not be endangered**
- **Unless otherwise directed by the Commission, the staff plans to issue the certification decision and proposed certificates of compliance by August 30, 1996**

IMPLEMENTING ACTIONS

- **NMSS Director issues Federal Register Notice containing the certification decision**
- **Issue a proposed Compliance Certificate and a Compliance Evaluation Report for each plant**
- **Notify Congress, USEC, DOE, and other interested parties of the decision**
- **Issue a press release**

RIGHTS OF CERTAIN PERSONS TO PETITION FOR REVIEW OF DECISION

- **10 CFR Section 76.62(c) provides that certain persons may petition for review of the certification decision**
 - **USEC**
 - **Any person whose interest may be affected and who**
 - **Provided written comments in response to previous FR notices, or**
 - **Provided oral comments at public meetings**
- **Person must file petition with the Commission within 15 days after FR notice publication**
- **Decision becomes final unless Commission grants petition for review or otherwise acts within 60 days after publication of FR notice**
- **If no petition is received in the designated 15-day period, the NMSS Director intends to issue the final certificates**

TRANSITION FROM DOE JURISDICTION TO NRC JURISDICTION

- **DOE regulates plants and will continue to do so until NRC assumes jurisdiction**
- **Certificate will state that NRC intends to assume jurisdiction on March 3, 1997**
- **Transition period allows for orderly transition from DOE requirements to NRC requirements**
- **NRC resident inspectors assigned as observers since 1994, and will inspect implementation of compliance plan during transition period**

SUMMARY

- **NRC has developed certification process and regulatory bases for making required findings on application and compliance plan**
- **USEC application and DOE-prepared compliance plan provide for continued safe operation of the gaseous diffusion plants**
- **NRC staff is ready to issue initial certification decision**
- **NRC staff is prepared to assume regulatory oversight from DOE following transition period**

**Statement of William H. Timbers, Jr, President and CEO
United States Enrichment Corporation
To the Nuclear Regulatory Commissioners' Briefing, August 28, 1996**

Chairman Jackson, Commissioner Dicus, Commissioner Rogers, Commissioner Diaz, Commissioner McGaffigan, and members of the NRC staff. Thank you for the opportunity to be here today and to offer, first, my brief comments about the application process for certification of our gaseous diffusion plants; and, second, to clearly state USEC's position and philosophy as a regulated nuclear fuel company under the NRC.

We have been actively pursuing the certification application for the gaseous diffusion plants since 1994. In May of 1995, I appeared before the NRC Commission and committed USEC to:

- listen carefully to NRC's concerns and direction;
- address each and every issue raised by the NRC;
- and communicate completely, openly and directly with the NRC.

We have diligently pursued each of these commitments over the past fifteen months, and we were met with an equally diligent effort on the part of the NRC staff. Both USEC and the Commission staff have worked very hard to get here today. Our far-ranging and intensive interactions have involved diverse experts from the Nuclear Regulatory Commission, Department Of Energy, USEC, Lockheed Martin Utility Services and others, working together to conclude a unique undertaking. There was no precedent for NRC certification and regulation of an operating gaseous diffusion plant, and we shared the challenge of developing a sound framework for NRC regulation of these plants.

To be sure, none of the participants thought this would be an easy or straightforward process. It has, in point of fact, been a tough, challenging and, perhaps not surprisingly, even a bit contentious process at times. Since all of us have been working in uncharted territory -- differing perspectives, considerations and constraints came into play.

I am gratified that all parties involved have been able to constructively address and reconcile these matters so that there is agreement on the methods by which we will continue the safe operations of the plants.

We are now on the threshold of completing the initial step toward certification and moving to the next stage -- operation of the gaseous diffusion plants under NRC regulations.

The 110 reactors and 9 major fuel facilities that NRC regulates have nuclear operating histories and past experiences which have been well known to the NRC since those facilities were first licensed and operated. The Paducah and Portsmouth plants are the first facilities to already be in operation prior to coming under NRC regulation. I know that the uniqueness of this situation is well understood. Since we are bringing to you an existing history, we will focus on the company we want to be and will be.

There is agreement that historically the gaseous diffusion plants have been safely operated. I want to assure you and the NRC staff that, first, we are confident about our ability to continue such safe operations, and second, we are equally committed to working with the NRC to secure and maintain your continued confidence in us and our performance.

I make this commitment not only because you would expect no less from us, but also because of another motivation. It makes good business sense. Safety is good for the bottom line, and is a key element in our overall business strategy. In implementing the mandates of the Energy Policy Act, USEC management developed a three-part commitment to succeed. The three elements of that commitment are Performance, Efficiency and Safety. None can exist without the others, and each depends upon the others for success.

Production performance and efficiency keep people employed and make profits, which are required to make investment in safety possible. Safe operation protects the company's assets and assures that efficiency and production goals can be met. Neither a facility owner nor their regulators should focus on one element at the exclusion of the others. We view them as inseparable.

Safety is a continuous process, not an end. We have and will continue to look for ways to improve.

We have, for example, reorganized the plants along functional lines. We have brought in individuals with nuclear plant operating experience to complement experienced plant staff.

Consistent with the NRC's interest, we have enhanced USEC's oversight of plant operations. Last fall we established a Safety, Safeguards and Quality organization at the sites, reporting to the USEC Executive Vice President. This organization is responsible for assuring compliance with applicable regulatory requirements and USEC policies.

We have established new management expectations about rigor and formality of operations. To further improve plant safety and operations, we have formed a Plant Performance Review Committee composed of outside representatives with extensive nuclear experience to provide an objective external perspective to our senior operations management. This committee has been meeting for the past 18 months.

We have developed an action plan to provide a sound basis for improvement of management controls to assure safe operation of the plants. For example, we are enhancing management controls over policy and procedural programs, corrective action programs, performance measures, audits and self-assessments, and training programs. And, with DOE, we are preparing a new accident analysis to serve as the technical baseline for the plants.

We've learned a great deal, and we are improving our abilities. We are committed to constant review and continuous improvement of our performance. We have been consistent in our commitment to a vision for the future operations of the plants -- that vision must always start with assuring the safety of the public, our workers and the environment. There is no room for complacency. We will continually work to maintain and improve margins of nuclear and industrial safety.

I also want to again acknowledge the NRC for its well-earned reputation for excellence in the conduct of its regulatory activities. I commit to you that we will be open and responsive in all of our dealings with the Commission.

We have made commitments - commitments to ourselves, our employees, our contractors, and to you. We take the commitments we made in the application, the compliance plans and new technical safety requirements very seriously. I want to reconfirm to you that our first and foremost commitment, without reservation of any kind, is the safe operation of our plants.

We look forward to a successful and productive relationship with you, our new regulator, as we both work relentlessly to maintain the same goal - the *continued* safe operation of the uranium enrichment plants. Thank you.

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