

uranium-235 in the uranium hexafluoride to up to 5 percent. The centrifuge would operate at below atmospheric pressure. The capacity of the plant would be up to 3 million separative work units (SWU) (SWU relates to a measure of the work used to enrich uranium). The enriched UF<sub>6</sub> would be transported to a fuel fabrication facility. The depleted UF<sub>6</sub> would be stored on site until it can be sold or disposed of commercially, or by the Department of Energy.

### 3.0 Alternatives To Be Evaluated

**No-Action**—The no-action alternative would be to not build the proposed LES gas centrifuge uranium enrichment facility. Under this alternative, the NRC would not approve the license application. This serves as a baseline for comparison.

**Proposed action**—The proposed action involves the construction, operation, and decommissioning of a gas centrifuge uranium enrichment facility located near Eunice, NM. The applicant would be issued an NRC license under the provisions of 10 CFR parts 30, 40, and 70.

Other alternatives not listed here may be identified through the scoping process.

### 4.0 Environmental Impact Areas To Be Analyzed

The following areas have been tentatively identified for analysis in the EIS:

- **Land Use:** Plans, policies and controls;
- **Transportation:** Transportation modes, routes, quantities, and risk estimates;
- **Geology and Soils:** Physical geography, topography, geology and soil characteristics;
- **Water Resources:** Surface and groundwater hydrology, water use and quality, and the potential for degradation;
- **Ecology:** Wetlands, aquatic, terrestrial, economically and recreationally important species, and threatened and endangered species;
- **Air Quality:** Meteorological conditions, ambient background, pollutant sources, and the potential for degradation;
- **Noise:** Ambient, sources, and sensitive receptors;
- **Historical and Cultural Resources:** Historical, archaeological, and traditional cultural resources
- **Visual and Scenic Resources:** Landscape characteristics, manmade features and viewshed;
- **Socioeconomics:** Demography, economic base, labor pool, housing,

transportation, utilities, public services/facilities, education, recreation, and cultural resources;

- **Environmental Justice:** Potential disproportionately high and adverse impacts to minority and low-income populations;
- **Public and Occupational Health:** Potential public and occupational consequences from construction, routine operation, transportation, and credible accident scenarios (including natural events);
- **Waste Management:** Types of wastes expected to be generated, handled, and stored; and
- **Cumulative Effects:** Impacts from past, present and reasonably foreseeable actions at, and near the site(s).

This list is not intended to be all inclusive, nor is it a predetermination of potential environmental impacts. The list is presented to facilitate comments on the scope of the EIS. Additions to, or deletions from this list may occur as a result of the public scoping process.

### 5.0 Scoping Meeting

One purpose of this NOI is to encourage public involvement in the EIS process, and to solicit public comments on the proposed scope and content of the EIS. The NRC will hold a public scoping meeting in Eunice, New Mexico, to solicit both oral and written comments from interested parties.

Scoping is an early and open process designed to determine the range of actions, alternatives, and potential impacts to be considered in the EIS, and to identify the significant issues related to the proposed action. It is intended to solicit input from the public and other agencies so that the analysis can be more clearly focused on issues of genuine concern. The principal goals of the scoping process are to:

- Ensure that concerns are identified early and are properly studied;
- Identify alternatives that will be examined;
- Identify significant issues that need to be analyzed;
- Eliminate unimportant issues; and
- Identify public concerns.

The scoping meeting will begin with NRC staff providing a description of the NRC's role and mission. A brief overview of the licensing process will be followed by a brief description of the environmental review process. The bulk of the meeting will be allotted for attendees to make oral comments.

### 6.0 Scoping Comments

Written comments should be mailed to the address listed above in the **ADDRESSES** section.

The NRC staff will make the scoping summaries and project-related materials available for public review through our electronic reading room: <http://www.nrc.gov/reading-rm/adams.html>. The scoping meeting summaries and project-related materials will also be available on the NRC's LES Web page: <http://www.nrc.gov/materials/fuel-cycle-fac/lesfacility.html> (case sensitive).

### 7.0 The NEPA Process

The EIS for the LES facility will be prepared according to the National Environmental Policy Act of 1969 and the NRC's NEPA Regulations at 10 CFR part 51.

After the scoping process is complete, the NRC and its contractor will prepare a draft EIS. A 45-day comment period on the draft EIS is planned, and public meetings to receive comments will be held approximately three weeks after distribution of the draft EIS. Availability of the draft EIS, the dates of the public comment period, and information about the public meetings will be announced in the **Federal Register**, on NRC's LES Web page, and in the local news media when the draft EIS is distributed. The final EIS will incorporate public comments received on the draft EIS.

Signed in Rockville, MD this 16th day of January, 2004.

For The Nuclear Regulatory Commission.

**Lawrence E. Kokajko,**

Chief, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E4-179 Filed 2-3-04; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos: (Redacted), License Nos: (Redacted), EA-XX-XXXX (Redacted)]

**In the Matter of all Licensees Authorized to Manufacture or Initially Transfer Items Containing Radioactive Material for Sale or Distribution and Possess Certain Radioactive Material of Concern and All Other Persons Who Obtain Safeguards Information Described Herein; Order Imposing Additional Security Measures (Effective Immediately)**

I

The Licensees identified in Attachment 1<sup>1</sup> to this Order hold licenses issued in accordance with the Atomic Energy Act of 1954 by the U.S.

<sup>1</sup> Attachment 1 contains official use only sensitive information and will not be released to the public.

Nuclear Regulatory Commission (NRC or Commission) or an Agreement State authorizing them to manufacture or initially transfer items containing radioactive material for sale or distribution. Commission regulations at 10 CFR 20.1801 or equivalent Agreement State regulations require Licensees to secure, from unauthorized removal or access, licensed materials that are stored in controlled or unrestricted areas. Commission regulations at 10 CFR 20.1802 or equivalent Agreement States regulations require Licensees to control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

## II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its Licensees in order to strengthen Licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and license requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to be implemented by Licensees as prudent measures to address the current threat environment. Therefore, the Commission is imposing the requirements set forth in Attachment 2 on certain manufacturing and distribution licensees identified in Attachment 1 of this Order<sup>2</sup> who currently possess, or have near term plans to possess, high-risk radioactive material of concern. These requirements, which supplement existing regulatory requirements, will provide the Commission with

reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that Licensees may have already initiated many measures set forth in Attachment 2 to this Order in response to previously issued advisories or on their own. It is also recognized that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the Licensees' specific circumstances to achieve the intended objectives and avoid any unforeseen effect on the safe use and storage of the sealed sources. Although the additional security measures implemented by the Licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that the security measures must be embodied in an Order consistent with the established regulatory framework. The Commission has determined that the security measures contained in Attachment 2 of this Order contain safeguards information and will not be released to the public as per "Order Imposing Requirements for the Protection of Certain Safeguards Information (Effective Immediately)," issued November 23, 2003, regarding the protection of safeguards information."

To provide assurance that the Licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all Licensees who hold licenses issued by the U.S. Nuclear Regulatory Commission or an Agreement State authorizing possession of high-risk radioactive material of concern shall implement the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

## III

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR part 30, and 10 CFR part 32, it is hereby ordered, effective immediately, that all Licensees identified in Attachment 1 to this Order

shall comply with the requirements of this Order as follows:

A. The Licensee shall, notwithstanding the provisions of any Commission or Agreement State regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order. The Licensee shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by July 12, 2004, or the first day that radionuclides of concern at or above threshold limits (*i.e.*, high-risk radioactive material), also identified in Attachment 2, are possessed, which ever is later.

B. 1. The Licensee shall, within twenty-five (25) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission or Agreement State regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

2. If the Licensee considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely impact safe operation of the facility, the Licensee must notify the Commission, within twenty-five (25) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C. 1. The Licensee shall, within twenty-five (25) days of the date of this Order, submit to the Commission a schedule for completion of each requirement described in Attachment 2.

2. The Licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding any provisions of the Commission's or an Agreement State's regulations to the contrary, all measures implemented or actions taken

<sup>2</sup> Attachment 1 contains official use only sensitive information and Attachment 2 contains safeguards information and will not be released to the public.

in response to this order shall be maintained until the Commission determines otherwise.

Licensee responses to Conditions B.1, B.2, C.1, and C.2 above shall be submitted to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee submittals that contain specific physical protection or security information considered to be safeguards information shall be put in a separate enclosure or attachment and, marked as "safeguards information—modified handling" and mailed (no electronic transmittals, *i.e.*, no e-mail or fax) to the NRC.

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

#### IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty-five (25) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for

hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

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

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

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in section III above shall be final twenty-five (25) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 12th day of January, 2004.

For the Nuclear Regulatory Commission.

**Martin J. Virgilio,**

*Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. E4-180 Filed 2-3-04; 8:45 am]

BILLING CODE 7590-01-P

#### NUCLEAR REGULATORY COMMISSION

##### Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission (NRC) has issued a revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific

parts of the NRC's regulations, techniques used by the staff in its review of applications for permits and licenses, and data needed by the NRC staff in its review of applications for permits and licenses.

Revision 13 of Regulatory Guide 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," has been reprinted, with a January 2004 date, to correct page 14, which had incomplete and duplicative text. The electronic versions of this guide, on the NRC Web page and in the ADAMS system, have had the correct page 14 since they were posted, but the printed version had an incorrect page 14. No changes were made in this version except to change page 14 and the date of the guide.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555. Questions on the content of this guide may be directed to Mr. W.E. Norris, (301)415-6796; email [wen@nrc.gov](mailto:wen@nrc.gov).

Regulatory guides are available for inspection or downloading at the NRC's Web site at [www.nrc.gov](http://www.nrc.gov) under NRC Documents and in NRC's ADAMS System at the same site. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to (301) 415-2289, or by e-mail to [distribution@nrc.gov](mailto:distribution@nrc.gov). Issued guides may also be purchased from the National Technical Information Service (NTIS) on a standing order basis. Details on this service may be obtained by writing NTIS at 5285 Port Royal Road, Springfield, VA 22161; telephone 1-800-553-6847; <http://www.ntis.gov>. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated in Rockville, MD, this 20th day of January, 2004.

For the Nuclear Regulatory Commission.

**Ashok C. Thadani,**

*Director, Office of Nuclear Regulatory Research.*

[FR Doc. E4-178 Filed 2-3-04; 8:45 am]

BILLING CODE 7590-01-P