

transmitted either by means of facsimile transmission to 301-415-3725 or by email to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated November 5, 2003, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 31st day of January 2005.

For the Nuclear Regulatory Commission.

**Deirdre W. Spaulding,**

*Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 070-07001, Certificate No. GDP-1, EA-04-123]

### United States Enrichment Corporation, Paducah Gaseous Diffusion Plant, Paducah, KY; Confirmatory Order Modifying License (Effective Immediately)

The United States Enrichment Corporation (USEC or Corporation) is the holder of NRC Certificate of Compliance No. GDP-1 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 76. The certificate authorizes USEC to receive, and licensees shall be authorized to transfer to the Corporation, byproduct material, source material, or special nuclear material to the extent permitted under the Certificate of Compliance. The certificate was issued November 26, 1996, was most recently amended on

June 30, 2004, and is due to expire on December 31, 2008.

On December 16, 2002, the NRC's Office of Investigations (OI) started an investigation to determine whether a Quality Control (QC) Manager at USEC's Paducah Gaseous Diffusion Plant (PGDP) was discriminated against by being suspended and later terminated for raising safety concerns. On May 12, 2003, OI expanded its investigation to determine whether the same QC Manager was discriminated against, in retaliation for the previously raised safety concerns, by not being considered for a position with a contractor performing work for USEC at PGDP. OI, in OI report No. 3-2002-040, did not substantiate that the QC Manager was suspended or terminated because of raising safety concerns. However, based on the facts and circumstances described in OI Report Number 3-2002-040, the NRC was concerned that the former QC Manager may have been discriminated against by not being considered for a contract position. By letter dated September 29, 2004, the NRC identified to USEC the NRC's concern. The September 29th letter offered USEC the opportunity either to attend a predecisional enforcement conference (PEC) or to request alternative dispute resolution (ADR) in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and USEC and, if possible, assist the NRC and USEC in reaching an agreement on resolving the concern. USEC chose to participate in ADR. On November 22, 2004, the NRC and USEC met at USEC headquarters in Bethesda, Maryland in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution.

By letter dated December 6, 2004, USEC enumerated the actions it has already taken and additional actions it agreed to take in order to enhance its Safety Conscious Work Environment at the PGDP. The agreed-upon additional actions noted in Section IV of this Confirmatory Order focus on Safety Conscious Work Environment training for managers of USEC contractors at the PGDP and USEC managers who are principal points of contact for USEC contractors at the PGDP.

On January 24, 2005, USEC consented to the NRC issuing this Confirmatory Order with the commitments, as described in Section IV below. USEC further agreed in its January 24, 2005, letter that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing. The NRC has concluded that its concerns

can be resolved through effective implementation of USEC's commitments.

I find that USEC's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that USEC's commitments be confirmed by this Order. Based on the above and USEC's consent, this Order is immediately effective upon issuance. USEC is required to provide the NRC with a letter summarizing its actions when all of the Section IV requirements have been completed.

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, 186 and 1710 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 76, it is hereby ordered, effective immediately, that Certificate of Compliance No. GDP-1 is modified as follows:

1. By no later than March 31, 2005, USEC shall develop and conduct initial Safety Conscious Work Environment training for: (a) Managers of USEC contractors at the PGDP; and (b) USEC personnel who are principal points of contact for USEC contractors at the PGDP.

2. By no later than June 30, 2005, USEC shall develop Safety Conscious Work Environment refresher training for the managers of USEC contractors at the PGDP and revise its training program requirements to conduct on-going refresher training at a frequency consistent with USEC's General Employee Training at the PGDP.

3. By no later than June 30, 2005, USEC shall revise its training program requirements to conduct initial Safety Conscious Work Environment training for: (a) New managers of USEC contractors at the PGDP; and (b) USEC personnel who become principal points of contact for USEC contractors at the PGDP, within ninety day of their assumption of these duties.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by USEC of good cause.

Any person adversely affected by this Confirmatory Order, other than the Certificate holder, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a

statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region II, 61 Forsyth Street, SW., Suite 23T85, Atlanta, Georgia, 30303-8931, and to the Certificate Holder. Because of continuing 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 2.309(d) and (f).

If a hearing is requested by 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 Confirmatory Order should be sustained.

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 IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV 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 27th day of January 2005.

For the Nuclear Regulatory Commission.

**Frank J. Congel,**

*Director, Office of Enforcement.*

[FR Doc. 05-2243 Filed 2-4-05; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-17541]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Exxonmobil Biomedical Sciences, Inc.'s Facility in Annandale, NJ

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**FOR FURTHER INFORMATION CONTACT:** Betsy Ullrich, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406, telephone (610) 337-5040, fax (610) 337-5269; or by email: [EXU@NRC.GOV](mailto:EXU@NRC.GOV).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The Nuclear Regulatory Commission (NRC) is issuing a license amendment to Exxonmobil Biomedical Sciences, Inc. for Materials License No. 29-19396-01, to authorize release of its facility in Annandale, New Jersey for unrestricted use. NRC has prepared an Environmental Assessment (EA) in support of this action in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

#### II. EA Summary

The purpose of the action is to authorize the release of the licensee's Annandale, New Jersey facility for unrestricted use. Exxonmobil Biomedical Sciences, Inc. was authorized by NRC from December 14, 1999, to use radioactive materials for research and development purposes at the site. On October 25, 2004, Exxonmobil Biomedical Sciences, Inc. requested that NRC release the facility for unrestricted use. Exxonmobil Biomedical Sciences, Inc. has conducted surveys of the facility and provided information to the NRC to demonstrate that the site meets the license termination criteria in Subpart E of 10 CFR Part 20 for unrestricted use.

The NRC staff has prepared an EA in support of the license amendment. The facility was remediated and surveyed prior to the licensee requesting the license amendment. The NRC staff has reviewed the information and final status survey submitted by Exxonmobil

Biomedical Sciences, Inc. Based on its review, the staff has determined that there are no additional remediation activities necessary to complete the proposed action. Therefore, the staff considered the impact of the residual radioactivity at the facility and concluded that since the residual radioactivity meets the requirements in Subpart E of 10 CFR Part 20, a Finding of No Significant Impact is appropriate.

#### III. Finding of No Significant Impact

The staff has prepared the EA (summarized above) in support of the license amendment to terminate the license and release the facility for unrestricted use. The NRC staff has evaluated Exxonmobil Biomedical Sciences, Inc.'s request and the results of the surveys and has concluded that the completed action complies with the criteria in Subpart E of 10 CFR Part 20. The staff has found that the environmental impacts from the action are bounded by the impacts evaluated by NUREG-1496, Volumes 1-3, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities" (ML042310492, ML042320379, and ML042330385). On the basis of the EA, the NRC has concluded that the environmental impacts from the action are expected to be insignificant and has determined not to prepare an environmental impact statement for the action.

#### IV. Further Information

Documents related to this action, including the application for the license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this Notice are: Environmental Assessment Related to an Amendment of U.S. Nuclear Regulatory Commission Materials License No. 29-19396-01 ML050280058; and the Radiological Decommissioning Report, ExxonMobil Biomedical Sciences, Inc., 1545 Route 22 East, Annandale, New Jersey, October 24, 2004 (ML043100336). Please note that on October 25, 2004, the NRC terminated public access to ADAMS and initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from