Occupational Safety and Health Administration

Notice of Memorandum of Understanding Between the Occupational Safety and Health Administration and the Office of Environment, Safety and Health Regarding Worker Safety and Health at Facilities Leased by the United States Enrichment Corporation

AGENCY: Occupational Safety and Health Administration, Labor. ACTION: Notice.

SUMMARY: This notice is to advise the public of the issuance of a Memorandum of Understanding (MOU) between the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) and the U.S. Department of Energy (DOE) Office of Environment, Safety and Health. The MOU delineates the areas of responsibility of each agency at the gaseous diffusion plants owned by DOE and leased by the United States Enrichment Corporation (USEC); describes generally the efforts of the agencies to assure worker protection at these plants; and provides procedures for coordination of activities between DOE and OSHA.

EFFECTIVE DATE: December 21, 1994. **FOR FURTHER INFORMATION CONTACT:** Anne Cyr, Acting Director, Office of Information and Consumer Affairs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3647, 200 Constitution Ave., N.W., Washington, D.C. 20210. Telephone: (202) 219–8615.

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 1992, (the Energy Policy Act, 42 U.S.C. Section 2297 et. seq.), created the USEC, a government corporation which administers uranium enrichment facilities leased from DOE. The Energy Policy Act also required the Nuclear Regulatory Commission (NRC) to establish standards for the regulation of the gaseous diffusion plants leased by the USEC. The NRC final rule set forth requirements for plant certification, and announced assumption of NRC regulatory authority over diffusion plants in "late 1995." See 59 FR 48944-48976.

Until such time as the NRC assumes regulatory jurisdiction, DOE will exercise nuclear safety and safeguards and security oversight authority. The regulatory framework under which DOE exercises its authority is contained in a Regulatory Oversight Agreement incorporated in the lease agreement between DOE and USEC. Specific matters related to the process by which NRC will assume, and DOE will relinquish, responsibility for regulatory oversight under the Energy Policy Act are set forth in a Joint Statement of Understanding between Nuclear Regulatory Commission and Department of Energy on Implementing Energy Policy Act Provisions on Regulation of Gaseous Diffusion Uranium Enrichment Plant, 59 FR 4729 (February 1, 1994).

Both DOE and OSHA have jurisdiction over safety and health at the portions of the gaseous diffusion plants leased by the USEC. A coordinated inter-agency effort, as outlined in the MOU (Appendix) will minimize potential gaps in the protection of the workers and avoid possible conflicting requirements.

Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, D.C. 20210.

Signed in Washington, D.C. this 19th day of January 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

Appendix

Memorandum of Understanding Between the U.S. Department of Labor, Occupational Safety and Health Administration, and U.S. Department of Energy, Office of Environments, Safety and Health

I. Purpose and Background

A. The purpose of this Memorandum of Understanding between the United States Department of Energy's (DOE) Office of Environment, Safety and Health and the United States Department of Labor's Occupational Safety and Health Administration (OSHA) is to delineate the areas of responsibility of each agency at the gaseous diffusion plants owned by DOE and leased by the United States Enrichment Corporation (USEC); to describe generally the efforts of the agencies to assure worker protection at these; and, to provide procedures for coordination of activities between DOE and OSHA.

B. Both DOE and OSHA have jurisdiction over radiological safety and health at the portions of the gaseous diffusion plants leased by the USEC. A coordinated inter-agency effort can minimize potential gaps in the protection of workers and, at the same time, avoid possible conflicting requirements.

II. Hazards Associated With Gaseous Diffusion Plants

Four basic categories of hazards are associated with the gaseous diffusion plants:

A. Industrial safety hazards due to the plant's physical condition or its operations;

B. Health hazards due to chemical and toxicological exposures associated with non-radioactive materials;

C. Health hazards due to potential exposure associated with radioactive materials; and,

D. Radiation hazards to the general public and the environment.

OSHA will regulate the hazards listed in paragraphs II. A; B; and C. DOE will regulate the hazards listed in paragraphs II. C, and D.

III. DOE Responsibilities

The Energy Policy Act of 1992, (the Energy Policy Act, 42 U.S.C. Section 2297 et. seq.), created the USEC, a government corporation, for purposes including leasing DOE's uranium enrichment facilities to market and sell enriched uranium and uranium enrichment and related services to the Department and domestic and foreign interests. The Energy Policy Act also requires the Nuclear Regulatory Commission (NRC) to establish standards for the regulation of the gaseous diffusion plants leased by the USEC by October 24, 1994, in order to protect the public health and safety from radiological hazards and to provide for the common defense and security. After these standards are promulgated, the USEC is required to apply at least annually for a certificate of compliance with these standards. Until such time as the NRC assumes regulatory jurisdiction at the gaseous diffusion plants, DOE will exercise nuclear safety and safeguards and security oversight authority to protect the public at the leased portions of the gaseous diffusion plant located in Paducah, Kentucky, and Piketon, Ohio. The regulatory framework for which DOE exercises its authority is contained in the Regulatory Oversight Agreement, Exhibit D to the Lease Agreement between DOE and USEC dated July 1, 1993. Specific matters related to the process by which NRC will assume, and DOE will relinquish, responsibility for regulatory oversight under the Energy Policy Act are set forth in a Joint Statement of Understanding between Nuclear Regulatory Commission and Department of Energy on Implementing **Energy Policy Act Provisions on** Regulation of Gaseous Diffusion Uranium Enrichment Plant, 59 FR 4729 (February 1, 1994).