

### NON-CONCURRENCE PROCESS

#### SECTION A - TO BE COMPLETED BY NON-CONCURRING INDIVIDUAL

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| TITLE OF DOCUMENT<br><b>Draft Safety Culture Policy Statement</b> | ADAMS ACCESSION NO.                      |
| DOCUMENT SPONSOR<br><b>Stewart Magruder</b>                       | SPONSOR PHONE NO.<br><b>301-415-8730</b> |
| NAME OF NON-CONCURRING INDIVIDUAL<br><b>Isabelle Schoenfeld</b>   | PHONE NO.<br><b>301-415-3280</b>         |

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REASONS FOR NON-CONCURRENCE  
**Please see attached**

CONTINUED IN SECTION D

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| SIGNATURE<br><i>Isabelle Schoenfeld</i> | DATE<br><i>4/22/09</i> |
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DIFFERING VIEWS PROGRAM MANAGER

Enclosure 9

**Non-Concurrence Statement Re: Draft Safety Culture Policy Statement, submitted by Isabelle Schoenfeld**

**Issue**

The Commission's February 25, 2008 Staff Requirements Memorandum (SRM) directed the staff, in part, to: "...expand the Commission's policy of safety culture to address the unique aspects of security and to ensure the resulting policy is applicable to all licensees and certificate holders." The draft Federal Register Notice (FRN) in Enclosure 1 of the Commission Paper does not adequately address the Commission's direction to provide the NRC's expectations for safety culture, in that the characteristics of a positive safety culture are not included in the only section of the FRN that addresses Commission policy, i.e., the "Statement of Policy" section.

**Recommendation for Consideration**

Based on the SRM direction to expand the Commission's policy of safety culture and publish the NRC's expectations for safety culture to apply to all licensees and certificate holders, the draft FRN should include, at a minimum, in the "Statement of Policy" section, the information presented in quotes below (now presented in the "Summary" section of the draft FRN). The quoted information is a summary of the staff's proposal for Commission expectations (i.e., safety culture characteristics) indicative of a positive safety culture. In addition, the draft FRN should continue to include the more complete description of these characteristics in the "Characteristics of a Positive Safety Culture" section. Or, the more complete description should replace the following summary in the "Statement of Policy" section:

"Experience has shown that certain organizational characteristics and personnel attitudes and behaviors are present in a positive safety culture. These include, but are not limited to, individuals demonstrating ownership and personal responsibility for maintaining safety and security in their day-to-day work activities; the implementation of processes for planning and controlling work activities such that safety and security are maintained; a work environment in which personnel feel free to raise safety and security concerns without fear of retaliation; prompt and thorough identification, evaluation and resolution of nuclear safety and security issues, commensurate with their significance; the availability of the resources needed to ensure that safety and security are maintained; decision-making processes that protect safety and security; clearly defined roles and responsibilities for maintaining safety and security; and the seeking out and implementation of opportunities to improve safety and security. The NRC expects its licensees and certificate holders to foster these characteristics, attitudes, and behaviors in their organizations and among individuals who are overseeing or performing regulated activities commensurate with the safety and security significance of their activities and the nature and complexity of the licensee's or certificate holder's organization and functions."

By including this information in the "Statement of Policy" section, the Commission (1) would more clearly communicate to licensees, certificate holders and other interested parties, the importance the Commission places on these expectations of a positive safety culture, and (2) would be consistent with the previous policy on safety culture in the 1989 policy statement on the "Conduct of Nuclear Power Plant Operations."

## Background

The proposed safety culture characteristics incorporate the concepts first described in the 1989 Conduct of Nuclear Power Plant Operations policy statement. They also incorporate the concepts in the Reactor Oversight Process (ROP) safety culture components, developed by the staff in response to the Commission's direction in SECY-SRM 2004-0111, which required the staff to enhance the ROP to more fully address safety culture. To enhance the ROP, the staff identified 13 safety culture components based on a review of a wide range of information sources, including the Institute of Nuclear Power Operations (INPO); the International Atomic Energy Agency (IAEA); the Nuclear Energy Agency (NEA); other industries; the organizational behavior, safety climate and safety culture research literature; and staff knowledge and experience. The 13 safety culture components were extensively discussed with stakeholders in public meetings prior to their implementation in the ROP in 2006.

In response to the Commission's February 2008 SRM, the staff reviewed and modified the ROP's safety culture components to (1) address security, (2) be more clearly applicable to all licensees and certificate holders, and (3) incorporate lessons learned from applying the safety culture components in the ROP. The result was nine safety culture characteristics that retain all of the concepts of the ROP safety culture components but are streamlined (i.e., eliminate redundancies), emphasize security and are applicable across the range of NRC-regulated work contexts. The staff is proposing to refer to the concept descriptions as safety culture "characteristics," rather than "components," to reduce potential confusion on the part of internal and external stakeholders between the safety culture characteristics described in the draft safety culture policy statement and the ROP's safety culture components. The staff posted and requested comments on the proposed safety culture characteristics at the February 3, 2009 public workshop and on the NRC's public safety culture website. The posted description of each safety culture characteristic included two illustrative examples of how behavior or attitudes indicative of the concept may be observed in any workplace where safety and security are important. The illustrative examples were provided to enhance all of NRC's stakeholders' understanding of each characteristic.

The initial draft Commission Paper, developed by staff in response to the February 2008 SRM, included the proposed safety culture characteristics and associated illustrative examples in the "Statement of Policy" section of the FRN. It was then determined that the safety culture characteristics should be removed from the "Statement of Policy" section and placed in another section of the FRN (for reasons discussed below) and that the illustrative examples should be removed because they were thought to be too detailed for a policy statement. In the next draft, the characteristics were placed in a section of the FRN titled "Characteristics of a Positive Safety Culture" and although the illustrative examples were removed, the characteristics were revised to retain the key descriptors from the illustrative examples. In that draft, the "Statement of Policy" section provided information on the characteristics in the summary form quoted above. In the final draft, this summary was removed from the "Statement of Policy" section and is now included in the "Summary" section. As a result, the draft policy statement forwarded to the Commission contains no information on the safety culture characteristics, i.e., areas that are indicative of a positive safety culture, in the "Statement of Policy" section.

The reasons for this direction apparently stem from two main concerns. First, there was a concern that placing the safety culture characteristics in the "Statement of Policy"

section would limit the Commission's ability to make changes to them and could also limit the staff's ability to engage with industry stakeholders with the objective of defining areas important to safety culture with a common terminology. Second, there was a concern that placing the safety culture characteristics in the "Statement of Policy" section would commit the Commission to safety culture characteristics that have not been fully discussed with internal and external stakeholders.

## **Discussion**

The recommendation to include the safety culture characteristics in the "Statement of Policy" section of the FRN is based on several considerations: (1) describing the characteristics of a positive safety culture will be informative to licensees, certificate holders and other stakeholders who may not be familiar with the concepts; (2) including Commission expectations (i.e., characteristics) in the "Statement of Policy" is consistent with previous policy statements; (3) the underlying concepts can be worded in a variety of ways to make them more clearly applicable to specific work environments, so that including the characteristics in the statement of policy would not, in fact, constrain staff efforts to develop common terminology with the affected industries, and (4) the staff is recommending that the draft policy statement be published for comment. If the Commission approves the staff's recommendation, there will be additional opportunities for stakeholders to consider and comment on them.

### Enhanced Communication

The commercial nuclear power industry is highly familiar with the concept of safety culture, beginning with the introduction of that term to the industry following the 1986 Chernobyl accident. However, as the Commission has recognized, it may not be as well-understood among other licensees and certificate holders. Although the NRC modified INSAG definition of safety culture in the draft policy statement provides a very general description of a positive safety culture, it is at a high-level and would be of limited usefulness to licensees and certificate holders in fully understanding the concept or recognizing either strengths or weaknesses in their own safety culture. Therefore, including the safety culture characteristics in the "Statement of Policy" section would better inform licensees and certificate holders of the Commission's expectations and increase the likelihood that all licensees and certificate holders would be able to address the policy expectations.

### Level of Detail

Including the Commission's expectations (i.e., characteristics) in the "Statement of Policy" would be consistent with previous policy statements. For example, the 1989 policy statement on the Conduct of Nuclear Power Plant Operations provided the Commission's expectations for positive safety cultures at operating reactors by defining safety culture and providing a general description of areas important to safety culture in the "Policy Statement" section of the FRN. Examples of concepts describing a positive safety culture from the 1989 Policy Statement (in quotes below) that are incorporated into the proposed safety culture characteristics (in parentheses below) include:

- "Management must provide the leadership that nurtures and perpetuates the safety culture...The starting point for the necessary full attention to safety matters is with the senior management of all organizations concerned." (Licensee Decision Making – Management decision-making ensures that safety and security are maintained.)

- "...the personal dedication and accountability of all individuals engaged in any activity which has a bearing on the safety of nuclear power plants" (Work Practices – As individual contributors, personnel demonstrate ownership for safety and security in their day-to-day work activities.)
- "Clear lines of responsibility and communication are established;" (Accountability – Roles, responsibilities and authorities for safety and security are clearly defined and reinforced.)
- "...sound procedures are developed;" (Resources – Management ensures that the personnel, equipment, procedures, and other resources needed to assure safety and security are available.)
- "Open attitudes are required in such staff [the operating organization] to ensure that information relevant to plant safety is freely communicated;" (Safety Conscious Work Environment (SCWE) – Management maintains a SCWE in which personnel feel free to raise concerns without fear of retaliation.)
- "...an inherently questioning attitude, the prevention of complacency, a commitment to excellence..." (Continuous Learning Environment – Management maintains a continuous learning environment in which opportunities to improve safety and security are sought out and implemented.)

The Commission has also previously emphasized the importance of promptly identifying and resolving problems that may affect nuclear safety and security, which are two of the proposed safety culture characteristics by determining that licensee "problem identification and resolution" processes are cross-cutting concerns since the inception of the ROP in 2000. Therefore, the concepts described in the proposed safety culture characteristics have been previously discussed by the Commission in other communications. What is different about the proposed characteristics for this policy statement is their broader applicability and inclusion of security.

#### Changes to Terminology

With regard to the concern that placing the safety culture characteristics in the "Statement of Policy" section would limit the Commission's ability to make changes to them and could also limit the staff's ability to engage with industry stakeholders with the objective of defining areas important to safety culture with a common terminology, note that the draft policy statement clearly states that the characteristics are not all-inclusive; that there may be other characteristics that may also be indicative of a positive safety culture in the specific work environments of different licensees and certificate holders.

The proposed safety culture characteristics are based on the ROP safety culture components, which the staff has evaluated for applicability to other environments including fuel cycle facilities, new reactor construction, and the NRC's internal safety culture. They represent concepts that are used in many other organizations' and regulatory bodies' safety culture descriptions (although they are sometimes termed attributes, aspects, principles, and may be worded differently). In addition, organizational weaknesses related to these characteristics have been determined to be root or contributing causes of significant events in not only the domestic and international nuclear industry but also in other industries. Although they may be expressed with different wording in the different environments, the underlying concepts are similar. Hence, there is a firm basis for presenting these characteristics as indicative of a positive safety culture.

If the NRC staff and stakeholders (e.g., reactor community, and/or Agreement States, and/or other stakeholders) are able to attain a common terminology(ies) that result in different wording of the safety culture characteristics, that should not impact the policy statement because it is the underlying concepts that are important, rather than the specific terminology used to describe them. If the underlying concepts are retained in future applications, there should be no need to revise the characteristics in the policy statement. Hence, including the characteristics in the "Statement of Policy" section should not preclude the staff's working with stakeholders to achieve more commonality in terminology. Furthermore, if, in the future, there is a need to modify the characteristics because the concepts have changed based on lessons learned, research, or other circumstances, then the Commission has the option to update the policy statement to reflect the needed changes.

#### Stakeholder Discussions

With regard to the concern that the proposed characteristics have not been fully discussed with internal and external stakeholders, it is important to note that, as discussed above, the concepts are not new. The proposed safety culture characteristics incorporate those concepts included in the 1989 policy statement, retain all of the concepts in the ROP safety culture components and have been presented to the public. As discussed in the Background section above, the ROP safety culture components were developed after extensive review and were vetted with internal stakeholders and external stakeholders. The fact that the safety culture characteristics address security, apply to all licensees and certificate holders, provide greater clarity and were streamlined does not change the concepts. Also, the staff is recommending that the Commission seek additional public comments on the draft policy statement including on the safety culture characteristics. Therefore, there will be opportunity for both internal and external stakeholders to comment on the characteristics before a final policy statement is published.

#### **Conclusion:**

NRC licensees and certificate holders possess a range of understanding of safety culture, it is therefore important to include the safety culture characteristics in the "Statement of Policy" section of the FRN to enhance their understanding of and appreciation for the importance of addressing characteristics that are indicative of a positive safety culture. In addition, providing the Commission's expectations in the "Statement of Policy" section is consistent with the 1989 policy statement and other policy statements. Not providing information on the safety culture characteristics in the "Statement of Policy" section may create the appearance that the characteristics included in the 1989 policy statement are no longer important to the Commission and that the Commission no longer supports the concepts in the safety culture components in the ROP. A policy statement that includes only the modified INSAG definition and a statement that licensees and certificate holders should foster a positive safety culture without describing what that means in the Statement of Policy section, could appear to be a step backwards in the Commission's efforts to promote a positive safety culture.

### NON-CONCURRENCE PROCESS

TITLE OF DOCUMENT

ADAMS ACCESSION NO.

Draft Safety Culture Policy Statement

**SECTION B - TO BE COMPLETED BY NON-CONCURRING INDIVIDUAL'S SUPERVISOR  
(THIS SECTION SHOULD ONLY BE COMPLETED IF SUPERVISOR IS DIFFERENT THAN DOCUMENT SPONSOR.)**

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COMMENTS FOR THE DOCUMENT SPONSOR TO CONSIDER

I HAVE NO COMMENTS

I HAVE THE FOLLOWING COMMENTS

CONTINUED IN SECTION D

SIGNATURE



DATE

4/20/09

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Actions taken to address non-concurrence:

The following actions were taken to address the differing views expressed in this non-concurrence:

1. The issue of the wording and proper placement of the safety culture characteristics was discussed extensively during the development of the draft policy statement language and a number of meetings of the task group and the steering committee were devoted solely to this issue. The discussions were very open and candid during these meetings and individuals were provided a chance to fully discuss each of their views. Each of the views was considered by the steering committee.
2. On the basis of the following factors, as articulated by the steering committee, the safety culture characteristics were not incorporated into the "Statement of Policy" section of the draft policy statement
  - a. The "statement of policy" section of the policy statement should be kept brief, concise, and written to a high level. This will keep the "Statement of Policy" section very crisp and to the point to ensure it is well understood by all stakeholders and conveys the Commission's expectations clearly.
  - b. Placement in another section of the policy does not invalidate its standing as part of the policy statement.
3. Following the development of the non-concurrence, and to ensure that the individual's views were clearly understood by the working group members, the steering committee, and each of the offices on concurrence for the Commission Paper and draft policy statement, the individual's non-concurrence statement was included and highlighted in an e-mail to each of the Office Directors and Regional Administrators for their review.
4. The Commission Paper was modified to include a summary of the staff discussions on this issue and to highlight that the non-concurrence was included as an Enclosure to the Commission Paper.
5. Finally, one of the questions in the Federal Register Notice was revised to specifically request public input on whether or not the safety culture characteristics should be included in the "statement of policy" section.

Based on the above, I believe that the staff has appropriately considered the views expressed in the non-concurrence and that the safety culture characteristics should not be included in the "Statement of Policy" section of the draft policy statement.

### NON-CONCURRENCE PROCESS

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**SECTION C - TO BE COMPLETED BY DOCUMENT SPONSOR**

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ACTIONS TAKEN TO ADDRESS NON-CONCURRENCE (This section should be revised, as necessary, to reflect the final outcome of the non-concurrence process, including a complete discussion of how individual concerns were addressed.)

**Please see attached.**

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| SIGNATURE - DOCUMENT SPONSOR<br><i>Stewart L. Magruder</i> | DATE<br><i>4/30/09</i> | SIGNATURE - DOCUMENT SIGNER<br><i>[Signature]</i> | DATE<br><i>EDO/S 5/18/09</i> |
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