

July 16, 2009

Mr. Stephen Cowne, Director
Quality and Regulatory Affairs
Louisiana Energy Services
P.O. Box 1789
Eunice, NM 88231

SUBJECT: CONSTRUCTION INSPECTION REQUIREMENTS (LOUISIANA ENERGY SERVICES GAS CENTRIFUGE URANIUM ENRICHMENT FACILITY)

Dear Mr. Cowne:

As an action item from our meeting of May 12, 2009, in which Operational Readiness Reviews (ORRs) were discussed, the U.S. Nuclear Regulatory Commission (NRC) staff indicated it would discuss the requirements for performing construction inspections to address the phased commencement of operations you are proposing for the Louisiana Energy Services (LES) uranium enrichment facility in Lea County, New Mexico. A construction inspection is required under Section 193(c) of the Atomic Energy Act of 1954 (AEA), as amended. This requirement is codified in the regulations at 10 CFR 40.41(g) and 70.32(k) and applies to each construction phase and each cascade you plan to place into operation. NRC staff plans to conduct the required construction inspections in addition to the ORRs. These inspections may be combined, where appropriate. These inspections will address construction of facilities for each of the applicable phases and will also address the operational programs, or significant changes to those operational programs, for each of the applicable phases.

Specifically, Section 193(c) of the AEA provides that, "prior to commencement of operation of a uranium enrichment facility licensed hereunder, the Commission shall verify through inspection that the facility has been constructed in accordance with the requirements of the license for construction and operation." Section 193(c) also requires that the Commission publish a notice of the inspection results in the Federal Register. This requirement, however, does not specify a timeframe within which the Federal Register notice is required to be published, and as such, there is no requirement that such notice be published prior to beginning operations.

You indicated that LES would like to commence operations at the Lea County facility in phases and one cascade at a time as each cascade is completed. This proposed operations schedule differs from your current licensing basis. Considering the requirements of Section 193(c) of the AEA and 10 CFR 40.41(g) and 70.32(k), which require the Commission to confirm that the facility has been constructed in accordance with the requirements of the license for construction and operation, your license and licensing basis documents (i.e, Safety Analysis Report, Environmental Report, etc.) will need to be amended to describe the processes, equipment, and facilities that will be applicable to each phase of construction.

Based upon the above requirements, we plan to conduct construction inspections in a manner that would facilitate a Commission decision on whether the facility was constructed in accordance with the license. In addition, we plan to conduct ORRs in a manner sufficient to verify that you can safely and securely operate the plant. The frequency and scope of these ORRs will be dependent on the status of your operational programs and the proposed phases of operation.

Following each of the construction inspections, we will document our findings in an inspection report. The actual inspection and preparation of the inspection report confirming that applicable portions of the facility have been constructed in accordance with the requirements of the license for construction and operation must be completed prior to introducing licensed material into that portion of the facility. The NRC staff will then transmit to you the completed inspection report which will authorize you to begin operations. At the same time, we will initiate the process for publishing the inspection results in the Federal Register. You will not be required to delay the commencement of operations pending publication of the Federal Register notice.

Because you plan to complete subsequent cascades on a relatively frequent schedule, further discussion regarding a schedule to effectively and efficiently utilize inspection resources is appropriate. Individual inspections at the frequency presented in your current schedule were not previously planned. Please contact Ms. Deborah Seymour of the NRC's Region II office to set up a meeting to discuss your inspection scheduling.

In accordance with Title 10 Code of Federal Regulations 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

If you have any questions, please contact me via e-mail at Dan.Dorman@nrc.gov or at (301) 492-3132.

Sincerely,

/RA/

Daniel H. Dorman, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket No.: 70-3103
License No.: SNM-2010

cc:

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Jon Goldstein/NMED
Glen Smith/NMAG

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