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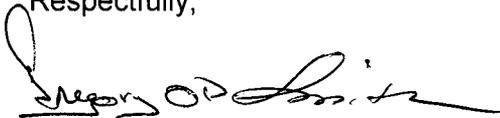
Subject: NRC's Draft Safety Culture Policy Statement

Reference: Federal Register/Vol. 74, No. 214/Friday, November 6, 2009/Notices,
Draft Safety Culture Policy Statement: Request for Public Comments

Pursuant to the Reference Federal Register Notice, Louisiana Energy Services, LLC (LES) herewith submits its comments (see Enclosure) on the NRC's Draft Safety Culture Policy Statement.

Should there be any questions concerning the enclosed comments, please contact Perry Robinson, LES VP Compliance & General Counsel, at 575.394.6598.

Respectfully,



Gregory OD Smith
Chief Nuclear Officer and Chief Operating Officer

Enclosure: LES' Comments on NRC's Draft Safety Culture Policy Statement

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ENCLOSURE**LES' COMMENTS ON NRC'S DRAFT SAFETY CULTURE POLICY STATEMENT
(DOCKET ID NRC-2009-0485)****I. Main Observations**

- LES appreciates the streamlining and clarification of Safety Culture characteristics, which takes into account the applicability of those characteristics to non-Part 50 licensees and more fully articulates the concepts underlying the characteristics.
- The policy statement properly acknowledges that “it does not address how” licensees or the NRC are expected to maintain a Safety Culture. Nuclear fuel cycle facilities differ in scope, personnel, safety and security considerations from other categories of licensees, and the policy statement makes clear that facilities such as URENCO-USA are not subject to specific or preconceived Safety Culture expectations. LES rather supports a graded approach to facility safety and security culture based on the relative risks of the functions and activities of the licensee.
- In Section 3 (“Safety Culture Concept”) of the policy statement, the draft properly observes that licensees are expected to place the highest priority on nuclear safety “commensurate with the risks inherent in the regulated activities,” thus accounting for the fact that the NRC regulates a variety of facilities in addition to operating power reactors. The final section of the policy statement similarly acknowledges that Safety Culture characteristics should be fostered commensurate with the safety and security significance of activities and the nature and complexity of their organization and functions. This acknowledgement – that Safety Culture characteristics are to be fostered commensurate with risk and based on the nature of a license facility – should also appear in the Statement of Policy itself (Section 2).
- While the guidance does not apply to new reactor construction, and while the NRC continues to consider oversight processes in areas important to Safety Culture in that context, the guidance apparently applies to fuel cycle construction activities. The policy statement should explicitly recognize that construction projects feature notable dynamics that distinguish such projects from established, operating facilities. Many of these dynamics relate directly to Safety Culture characteristics. For example, a construction project presents additional challenges for the expectation that “work groups communicate and cooperate during work projects,” due to the wide variety of work projects, their temporary nature, and the changing and typically temporary nature of work groups. Roles and responsibilities are more likely to change during certain phases of work evolution more frequently in a construction setting than in an operations setting. New construction phases bring new areas of safety to the forefront, and employee safety focus must shift accordingly – a characteristic not common to established operating facilities. Security, too, requires varying levels of focus at different construction stages.

- In general, the policy statement is acceptable at a high level. However, the issue is in the details and how far the NRC would go in enforcing broad statements contained therein without further explanation. For example, in Section 6 (Characteristics of a Positive Safety Culture) personnel are cautioned to: “..question their assumptions, especially when faced with uncertain or unexpected conditions, to ensure that safety and security are maintained.” Clearly, this is the right thing to do, but at the individual level there can be such a broad interpretation of what constitutes “uncertain or unexpected conditions” that some personnel, despite excellent training and procedures, may be so questioning of the situation as to cause them to effectively “freeze” or simply not take action.

Also, in Section 6 of the policy statement it is stated that the organization must ensure procedures, design documents, databases, etc. are complete, accurate and up-to date, prior to performing an act that impacts safety or security. LES agrees with that statement, but there is no such thing as instantaneous update of any documentation. Further work not impacted by safety or security should not be unnecessarily delayed or stopped (i.e., release at risk). Here again, the degree of interpretation will be the telling point.

- The most disturbing statement in the policy statement is in Section 5 (Safety and Security Culture), i.e., “Another challenge is that the organization/facility must ensure that the existence of motivated and capable persons with ill intent is recognized, and that the importance of nuclear security to prevent such persons from unauthorized access is understood.” It is desirable to prevent intentional sabotage from within nuclear facilities (e.g., security guards who have crossed over the line). However, this is practically impossible to implement because intentional sabotage from cleared personnel could take an infinite variety of forms. The Statement of Considerations should make more clear what is meant so that licensees, such as LES, can clearly know how to respond. For example, “ill intent is recognized through initial background checks and screening of site personnel and monitoring in FFD programs” [Note: the problem with this example is that fuel facilities are not currently required by regulation to have FFD].

The “how to” for the above statements is lacking and of the biggest concern since swinging the pendulum too far can result in excessive program implementation costs with little to no increased safety or security benefit.

- Several areas of the proposed policy require further clarification so that the industry has an opportunity to fully comment:
 - At p. 57526, in the Statement of Policy section, NRC states that it “will include appropriate means to monitor Safety Culture in its oversight programs and internal management processes” – What NRC has in mind should be shared with industry before implementation
 - At various places in the Policy Statement, NRC refers to “warranted by their significance” – again, sharing more detailed guidance before implementation would be helpful

II. Responses to Specific Questions Posed

Question 1: Apart from the matter discussed above regarding the construction phase of a facility, there are no additional Safety Culture characteristics particular to a nuclear fuel cycle facility/materials licensee that should be added to the new Policy Statement.

Question 2: None of the Safety Culture characteristics listed in the Policy Statement should be eliminated. Although the characteristics are broadly phrased, they in general encompass well-recognized aspects of Safety Culture.

Question 3: There is no need to include the list of Safety Culture characteristics in the section of the Policy Statement section entitled "Statement of Policy." It is preferable to keep the Statement of Policy section concise. The broad definition of Safety Culture provided in the Statement of Policy section clearly identifies the scope of the NRC's interests underlying the policy statement.

Question 4: No clarification of the basic definition of Safety Culture is needed.

Question 5: The statement, in light of the diversity of licensee organizations, that Safety Culture characteristics should be considered and fostered commensurate the safety and security significance of activities and the nature and complexity of the organization and functions does not require clarification. As noted above, however, that acknowledgement should be incorporated directly in the Statement of Policy section.

Question 6: The policy statement clearly states the NRC's expectations that Safety Culture incorporates security.

Question 7: With regard to whether the NRC should increase licensee attention to Safety Culture "in the materials area," LES does not believe that further attention is required. There is no basis for an assumption that the current level of regulatory attention is inadequate.

Question 8: The NRC can "better involve stakeholders to address Safety Culture" by more proactively and publicly promoting licensee Safety Culture achievements. "Oversight" of Safety Culture need not be limited to identifying activities or events that could detract from a Safety Culture. Workers at licensed facilities, in particular, might be encouraged by NRC acknowledgement of Safety Culture efforts and successes. However, the NRC should assure that any promotional efforts do not have unintended consequences to alter the agency's expectations for Safety Culture. For example, in lauding a certain practice by a given licensee, the NRC should make clear that it is not resetting expectations or implicitly revising its policy statement for all other licensees.