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Attn: Document Control Desk
Director
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Louisiana Energy Services, LLC
NRC Docket No. 70-3103

Subject: UUSA Comments on the NRC proposed charters

On April 3, 2019, the U.S. Nuclear Regulatory Commission ("NRC") conducted a public workshop to discuss its plans for assessing and, as appropriate, developing enhancements to the fuel cycle licensing and inspection programs. During the workshop the NRC staff requested that stakeholders provide comments on the proposed charters that set out basic steps to accomplishing the targeted efforts. Consistent with the NRC staff's request, URENCO USA ("UUSA") provides its comments below. UUSA appreciates the opportunity to comment and supports the broad direction the charters embody.

UUSA appreciates that the agency's transformative efforts, currently being addressed through the two proposed charters, do not encompass all of the agency's efforts in this regard, but rather are those efforts specifically focused on the fuel cycle. UUSA also appreciates that these targeted efforts derive from work previously completed by the agency. Two important examples of such work that bears on the proposed charters are found in the following NRC documents:

- SECY-18-0060, *Achieving Modern Risk-Informed Regulation*, dated May 23, 2018 ("SECY-18-0060"); and
- Memorandum from Marc Dapas to NMSS Staff, *Key Principles for Nuclear Material Safety and Safeguards Reviews*, dated January 15, 2019 ("Dapas Memorandum").

UUSA supports the innovative thinking and transformative direction that these documents promote. We believe that such efforts must begin with and be guided by clear, unambiguous, and objective principles and standards.

In this regard, the starting point for the two charters is set forth in the Memorandum. Specifically, the Memorandum discusses in some detail (1) what NRC reviewers are "required to address in the licensing findings" and (2) what NRC reviewers are required to "spend time and effort on." The Memorandum correlates the first requirement with "reasonable assurance," whereas the second requirement is correlated to "adequate protection." As the Memorandum discusses, these terminologies derive from language set forth in the Atomic Energy Act of 1954 ("AEA").

The Memorandum points out that multiple courts have interpreted these AEA concepts and "agreed that absolute safety or zero risk is not required." NRC guidance documents, for example NRC Inspection Manual, Part 9900, also state that these concepts mean that the NRC must ensure through its licensing and inspection activities that a licensee's authorized activities present no undue risk to public health and safety. The interpretation of these concepts is frequently incorporated into NRC Commissioner or NRC Senior Staff comments. For example,

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in 2013, at the International Ministerial Conference on Nuclear Power in the 21st Century, then Commissioner Kristine L. Svinicki (now Chairman) stated:

"The reasonable assurance standard acknowledges that the use of nuclear technology will always involve some degree of risk, and that the regulator must consider the degree of risk associated with each activity – with particularity – and recognize that its regulatory standards cannot be designed to eliminate risk entirely from those activities. Applying the reasonable assurance standard to both safety and security ensures that the inherent connection that exists between these two areas will work to maintain adequate protection in the most efficient and effective way."

This is a recent example of prior interpretations of the AEA concepts. However, nowhere in these previous examples have terms like those listed below been associated with the AEA concepts as they now are in the Memorandum:

- "holistic,"
- "integrated approach to safety,"
- "depends on an item's significance ... and its relative risk significance;" and
- "the scope and depth of the staff's review should be also *customized* to reflect the specific of the application" (emphasis supplied).

These terminologies add new interpretations to the AEA concepts that are already well-anchored in prior regulatory decisions. These new interpretations are not defined; as such, it will be left to the NRC reviewers to determine how to implement these interpretations when making future regulatory decisions. While UUSA appreciates that these terminologies are intended to direct NRC reviewers to a more effective and efficient risk-based approach to decision-making, it is crucial that NRC provide a clear definition (including specific examples similar to the way the NRC Enforcement Policy is formatted) of these terminologies before allowing them to be used. These terminologies, if not better defined, have a high likelihood of resulting in a licensing/inspection decision-making approach that is inconsistent and uncertain for NRC licensees. Therefore, UUSA requests the NRC to better define and clarify these important terminologies prior to implementation of the transformative efforts.

UUSA believes that the analysis and development of any guidance proposed should be completed before any piloting of such guidance. This approach makes sense because (1) it will better allow the NRC to focus its piloting efforts before applying them to real-life situations (which in turn will be more likely to result in effective and efficient use of both NRC and licensee resources) and (2) importantly, this approach will allow the critical culture change effort referred to in SECY-18-0060 to mature before real-life licensing and inspection situations are addressed. This latter point is important because as SECY-18-0060 points out, the shift in NRC culture "will be key to the success of the transformation initiative." The SECY paper goes on to recognize that changing NRC's culture is "the most significant barrier to an organization's ability to successfully transform itself." Providing adequate time for NRC's culture to change and mature will help ensure that overly conservative staff decisions are avoided. If culture change lags too far behind the planned transformative efforts, there is increased risk that the goal of achieving a risk-based licensing and inspection regime will not be achieved. Therefore, UUSA respectfully encourages the NRC to consider this perspective as it moves forward with the objectives and goals set forth in the two charters.

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UUSA appreciates this opportunity to comment on the proposed charters. Should there be any questions related to this response, please contact Rick Medina, UUSA Acting Licensing and Performance Assessment Manager, at 575-394-5846.

Respectfully,



Stephen Cowne
Chief Nuclear Officer and Compliance Manager