

By E-mail (Section934Rulemaking@Hq.Doe.Gov)

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**Convention on Supplementary Compensation for Nuclear Damage
Contingent Cost Allocation, Section 934**

Dear Ms. Sophia Angelini:

On behalf of Louisiana Energy Services, LLC ("LES"), this letter is submitted in response to the Department's July 27, 2010 Notice of Inquiry ("NOI") and request for comment on certain issues related to the Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation (75 Fed. Reg. 43945, July 27, 2010, and 75 Fed. Reg. 64717, October 20, 2010). These comments are timely filed pursuant to the deadline established in the Department's October 20, 2010 notice.

LES operates the URENCO USA gas centrifuge enrichment facility located in Eunice, New Mexico. URENCO USA is the first enrichment facility to be built in the United States in thirty years and the first ever using centrifuge enrichment technology. The facility provides a fungible commodity, uranium enrichment services, to the commercial nuclear fuel cycle.

The NOI raises a number of complicated issues related to implementation of Section 934 of the Energy Independence and Security Act of 2007 ("the Act"). In addition to conducting its own internal review, LES participated broadly in discussions related to Section 934 organized by the Nuclear Energy Institute ("NEI") and endorses the NEI comments being submitted to the Department under separate cover with particular emphasis on the following:

Definition of Nuclear Supplier. In defining the term "nuclear supplier", the Department should recognize Congressional intent in applying the Act to covered incidents outside the United States. As such, the definition should be distinctly applied to only U.S. persons that supply goods and services directly to a covered installation in a country that has ratified the Convention on Supplementary Compensation ("CSC"); U.S. persons supplying goods and services to U.S. end-users or to non-CSC countries would not be included in the definition for the purpose of an incident-specific allocation.

Risk Factors – Nature and intended purpose of the goods and services supplied by each nuclear supplier to each covered installation outside the United States.

LES agrees with NEI's assertion that the Department should establish graded categories or classes of nuclear suppliers with the highest level of responsibility for the contingent cost assigned to suppliers of goods identified in 10 CFR Section 110, Appendix A, 1-9, followed by nuclear fuel fabricators and those providing operator services.

Suppliers of goods and services to the front-end of the nuclear fuel cycle would appropriately be assigned to a much lower risk category. As NEI notes, there is a reasonable basis for determining that suppliers to the front end do not contribute significantly to the risk of liability for nuclear damage resulting from a nuclear incident at a covered installation outside the United States. Uranium enrichers like LES provide a fungible commodity, low enriched uranium hexafluoride ("UF₆"), to fuel fabricators. Fuel fabricators consolidate low enriched UF₆ stocks from multiple suppliers which are then heated to gaseous form and chemically processed to form uranium dioxide powder. Fabricators blend the powder to different uranium enrichment levels to produce enrichment levels required by a specific customer. This powder is subsequently pressed into pellets and sintered into ceramic form before being loaded in tubes and constructed into fuel assemblies meeting the precise requirements of an individual nuclear power plant.

The low enriched UF₆ supplied by LES to fuel fabricators necessarily conforms to the latest version of the ASTM International's Standard Specification for Uranium Hexafluoride Enriched to Less than 5% ²³⁵U, Designation C996, but is otherwise indistinguishable from the enriched UF₆ provided by LES' competitors, including foreign enrichers. While the enriched uranium pellet produced by fuel fabricators is a component related to safety under 10 CFR Part 21, the precursor raw enriched uranium as UF₆ produced by LES is not. As such, there is no means of identifying which portion – if any – of LES-supplied low enriched UF₆ is ultimately exported to a covered installation in a CSC country. Further, the enriched UF₆ is significantly transformed from the material provided by LES in processes outside of LES' control before it reaches the end-user.

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We appreciate the Department's consideration of these comments. Please do not hesitate to let us know of any questions concerning these comments or whether additional information is needed.

Respectfully submitted,



Clint Williamson
Vice President for Governmental Affairs