

November 17, 2006

MEMORANDUM TO: R. William Borchardt, Director
Office of New Reactors

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

FROM: Luis A. Reyes */RA/*
Executive Director for Operations

SUBJECT: DELEGATION OF AUTHORITY TO THE DIRECTOR OF THE OFFICE
OF NEW REACTORS

The Office of New Reactors (NRO) was formed as a result of the Staff Requirements Memorandum dated July 21, 2006, related to SECY-06-0144, "Proposed Reorganization of the Office of Nuclear Reactor Regulation [NRR] and Region II."

"Nuclear reactor facilities" as used in this memorandum refers to facilities licensed under 10 CFR Part 52 for which early site permits, design certifications and combined licenses have been applied for or issued or other activities authorized. NRO will assume authority for activities related to new reactors during preliminary pre-application interactions with potential applicants, industry groups, or other stakeholders, and will continue as the lead office during the licensing and construction of those facilities. NRO will retain licensing authority for such facilities until the resolution of all technical and adjudicatory issues associated with the Commission's finding that the prescribed inspections, tests, and analyses have been performed and that the prescribed acceptance criteria have been met. Licensing authority for these facilities will reside with NRR during their period of operation. It is anticipated that there will be a period of transition of licensing authority and regulatory oversight from NRO to NRR as these facilities commence operation.

NRO has the following specific functions:

1. Reviews, evaluates, and processes all aspects of applications for licenses, certifications, and permits, and amendments thereto prior to the initial commencement of operation for nuclear reactor facilities licensed under 10 CFR Part 52.
2. Coordinates with the Office of Nuclear Security and Incident Response (NSIR) the reviews and evaluations of emergency plans associated with combined licenses and early site permits and amendments to combined licenses prior to the initial commencement of operation for nuclear reactor facilities licensed under 10 CFR Part 52. Participates with NSIR in reviews and evaluations of Department of Homeland Security (DHS) findings and determinations relating to offsite responses by State and local governments. Develops, in coordination with NSIR, overall NRC evaluation of reactor licensee/applicant onsite/offsite emergency preparedness plans.

3. Coordinates with NSIR the reviews and evaluations of the safeguards performance of nuclear reactor facilities licensed under 10 CFR Part 52 and the adequacy of safeguards requirements for such facilities, including the conduct of onsite reviews and adequacy assessments, and ensures the development and adequacy of licensee-level safeguards contingency plans. Participates with NSIR in consultations with DHS concerning the potential vulnerabilities of the location of the proposed facility to terrorist attack.
4. Conducts the initial indemnification program for nuclear reactor facilities licensed under 10 CFR Part 52 in accordance with the provisions of the Price Anderson Act, including Section 170.C and K of the Atomic Energy Act of 1954, as amended.
5. Reviews, evaluates, and makes safety findings on problems and incidents that result from the design or construction of nuclear reactor facilities licensed under 10 CFR Part 52. Conducts such reviews, including possible backfit evaluations, in coordination with NRR when problems are identified following the commencement of operation of a facility licensed under 10 CFR Part 52. Provides support to NRR on the licensing basis for operating nuclear reactor facilities licensed under 10 CFR Part 52.
6. Develops policies, regulations, and procedures regarding prompt identification of construction, manufacture, or design-related problems for nuclear reactor facilities being licensed under 10 CFR Part 52. Coordinates the handling of rulemaking activities, operating experience (including assessing and responding to reports of an event or a defect or noncompliance), and generic issues with NRR and the Office of Regulatory Research (RES), including development and dissemination of generic communications.
7. Develops and directs the implementation of policies and programs for the construction inspection program and other regional inspection of nuclear reactor facilities licensed under 10 CFR Part 52 including contractors and suppliers to such NRC licensees/applicants, to ensure compliance with NRC requirements for public health and safety, the environment, protection against radiological sabotage, and protection of material from diversion to unauthorized uses.
8. As appropriate, assists or performs inspections of nuclear reactor facilities licensed under 10 CFR Part 52 and contractors and suppliers to nuclear reactor facilities licensed under 10 CFR Part 52.
9. Exercises oversight of all reactor inspection and licensing programs for nuclear reactor facilities licensed under 10 CFR Part 52 prior to initial commencement of operations. Provides programmatic and implementation direction to the construction inspection program in the regional offices in the conduct of reactor inspection and licensing programs for nuclear reactor facilities licensed under 10 CFR Part 52.
10. Develops and implements a comprehensive NRC program for the inspection of vendors throughout the U.S. and foreign countries who supply goods and services to nuclear reactor facilities licensed under 10 CFR Part 52.

11. Ensures that a comprehensive quality assurance program is applied to design, fabrication, construction, and testing of nuclear reactor facilities licensed under 10 CFR Part 52 . This encompasses licensees, vendors, architect-engineers, constructors, and other licensee agents and contractors.
12. Participates, as requested, in evaluations of the nuclear safety aspects of proposals to build or significantly modify any DOE-owned reactor, reactor-related facility, or other system related to the development of evolutionary or advanced nuclear reactors.
13. Participates, as requested, in international activities such as supporting the multinational design evaluation program (MDEP).
14. Provides advice and assistance to RES in the development of regulatory guides, resolution of generic safety issues, and other activities related to nuclear reactor facilities licensed under 10 CFR Part 52.
15. Identifies research needs required for NRO programs and makes appropriate recommendations to RES.
16. Serves as the principal point of contact for the NRC with the Advisory Committee on Reactor Safeguards for matters under review by NRO.
17. With other NRC offices, coordinates with States and local governments and other federal agencies regarding need for power determinations or other permitting issues related to nuclear reactor facilities licensed under 10 CFR Part 52.
18. Develops procedures and other infrastructure to assure the timely scheduling, review, and processing of matters under review by the office.
19. Supervises, directs, coordinates, and approves the activities, including administrative functions, of the various organizational units within the Office.
20. Performs such other functions as may be assigned.

The following specific authorities are delegated to the Director of NRO to carry out the functions of the Office:

1. Issue and amend licenses, certifications, permits, and limited work authorizations for nuclear power facilities under 10 CFR Part 52, prior to initial commencement of operation; except where the decision rests with an Atomic Safety and Licensing Board, an Administrative Law Judge, or the Commission, after a hearing pursuant to 10 CFR Part 2. This authority may include the licensing of byproduct, source, and special nuclear material used or produced in, and used in the operation of or stored at nuclear power facilities licensed under 10 CFR Part 52.

2. Issue license amendments authorizing changes in the facility or facility procedures; or authorizing the conduct of tests and experiments, in accordance with 10 CFR Part 52 prior to initial commencement of operation.
3. Consistent with NRC regulations, grant exemptions from NRC regulations or impose special conditions on nuclear power facilities licensed under 10 CFR Part 52 prior to initial commencement of operation.
4. Issue, pursuant to CFR Part 2, notices of denial or the proposed denial of:
 - (a) applications for licenses, certifications, or permits for nuclear power facilities under 10 CFR Part 52; and
 - (b) applications for amendments to licenses, design certifications, or permits for nuclear power facilities licensed under 10 CFR Part 52 prior to initial commencement of operation.
5. Take necessary or appropriate action in accordance with decisions of an Atomic Safety and Licensing Board, an Administrative Law Judge, or the Commission after a hearing pursuant to 10 CFR Part 2.
6. Pursuant to provisions of 10 CFR sections 2.202 and 2.204, issue orders to modify, suspend, or revoke licenses or to require other appropriate action, concerning:
 - (a) the manufacture, design, construction, and operation of nuclear power facilities licensed under 10 CFR Part 52; and
 - (b) use of source, byproduct, and special nuclear materials;

provided however, that such actions may be subject to revision to the extent the decision rests with an Atomic Safety and Licensing Board, Administrative Law Judge, or the Commission after a hearing pursuant to 10 CFR Part 2.
7. Execute indemnification agreements with licensees pursuant to Sections 170c and 170k of the Atomic Energy Act of 1954, as amended.
8. Pursuant to 10 CFR Part 51, prepare and circulate draft and final environmental impact statements and environmental appraisals on licensing actions within delegated authority.
9. In conjunction with the regional offices, determine NRC response to construction, manufacturing or design deficiencies or events that do not result in activation of the NRC Operation Center.
10. Issue documents, as directed, regarding the nuclear safety aspects of proposals to build or significantly modify any DOE-owned reactor, reactor-related facility, or other system exempt from licensing.

11. Issue documents, as directed, in support of international activities such as the MDEP.
12. Issue documents to and otherwise support the activities of the Advisory Committee on Reactor Safeguards for matters related to nuclear power facilities licensed under 10 CFR Part 52.
13. Develop policy options for Commission consideration on matters within delegated authority.
14. Perform, on behalf of the NRC, all functions of the Federal "Agency Official," as that term is defined in 36 CFR Part 800, and execute, on behalf of the NRC, such Memoranda of Agreement as are prescribed by those procedures.
15. Issue appropriate Federal Register notices related to matters within delegated authority, including notices which offer an opportunity for public hearing in connection with the action proposed to be taken whether or not required by statute or the Commission's regulations.
16. Enter into, extend, modify, and terminate orders and agreements with other agencies, as appropriate, and settle terminations thereof, in accordance with the guidance and limitations in a separate memorandum dated November 7, 2006 from the EDO to the Director of NRO.
17. Issue letters or other notices to combined license (COL) licensees or applicants, early site permit holders or applicants, design certification holders or applicants, or other appropriate individuals or organizations with respect to activities (including pre-application activities) related to facilities licensed under 10 CFR Part 52. Provide policy and procedures for the issuance of letters and notices by regional offices concerning inspections and licensing matters for facilities licensed under 10 CFR Part 52.
18. Issue directors decisions and other correspondence related to petitions filed in accordance with 10 CFR 2.206 regarding matters involving facilities licensed under 10 CFR Part 52 prior to initial commencement of operation.
19. Respond to controlled and routine correspondence related to nuclear power facilities licensed under 10 CFR Part 52 or otherwise assigned to the Office.
20. Prepare internal memoranda, budget requests, and other internal documents to support the activities of the Office.
21. Supervise, direct, coordinate, and approve the activities of the various organizational units within the Office.

This delegation of authority is effective as of the date of this memorandum. Responsibilities and signature authorities for some activities related to new reactors and related NRC programs may remain in NRR during the phased transition of activities from NRR to NRO. The two offices should coordinate activities and determine the appropriate approach to specific tasks or issues during the transition period. The staff should in a timely manner revise existing NRC management directives and develop a new directive for NRO to supercede this memorandum. Developing and revising the management directives may also be used to resolve remaining issues and issues identified in the future regarding appropriate distribution of authorities and coordination of activities between NRO, NRR and other NRC organizations. The staff should likewise undertake appropriate reviews and revisions to NRC regulations, policies, or other documents affected by the recent reorganizations.

The Director of NRO is hereby authorized and directed to take such action as is necessary to carry out the functions assigned by this memorandum or other official directives or communications. The Deputy Director of NRO is authorized and directed to act in the stead of the Director during the absence of the Director. The Director may, except where expressly prohibited, redelegate to others authority delegated to the Director by this or other official directives or communications as the Director may deem necessary. Such re delegation, including any limitations on further redelegations, must be made in writing and preserved as an official agency record in the Agency-wide Documents Access and Management System.

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