

January 17, 2008

MEMORANDUM TO: Cynthia A. Carpenter, Director
Office of Enforcement

FROM: Martin J. Virgilio **/RA/**
Deputy Executive Director for Materials, Waste,
Research, State and Tribal and Compliance Programs
Office of the Executive Director for Operations

SUBJECT: DELEGATION OF AUTHORITY FOR ENFORCEMENT ACTIONS

The Director, Office of Enforcement (OE), is hereby delegated the authority to approve, sign, and issue all enforcement actions. This authority includes, but is not limited to, notices of violation (including those associated with inspection findings characterized as Green, White, or Yellow pursuant to the Significance Determination Process), civil penalties, orders (including confirmatory orders and immediately effective orders), settlement agreements, and enforcement actions involving individuals.

The authority delegated herein is subject to the following limitations:

1. The Director, OE, may not approve, sign, or issue enforcement actions that are categorized at Severity Level I or those associated with inspection findings characterized as Red pursuant to the Significance Determination Process.
2. The authority hereby delegated to the Director, OE, does not apply to cases where the Director, OE, the Director of the Offices of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, Federal and State Materials and Environmental Management Programs, New Reactors, or a Regional Administrator is in disagreement on a proposed course of action.
3. The Director, OE, shall consult with the Deputy Executive Director for Operations (DEDO) in any case involving novel issues, or substantial legal, programmatic, or policy issues raised during the review process.

The Director, OE, is also authorized to take the following actions:

1. Exercise oversight of NRC enforcement programs.
2. Provide programmatic and implementation direction to the offices in the regions and in headquarters conducting enforcement activities.

3. Ensure that regional enforcement programs are adequately carried out.
4. Prepare letters requesting investigations, confirming actions, or obtaining information under sections 161(c) or 182 of the Atomic Energy Act of 1954, as amended (AEA).
5. Prepare subpoenas to licensees, companies, individuals, or other persons to obtain information to assist the Commission in the administration and enforcement of the AEA.
6. Take necessary or appropriate action in accordance with the decision of an Administrative Law Judge, the Atomic Safety and Licensing Board, or the Commission after enforcement hearings pursuant to Title 10 of the *Code of Federal Regulations* Part 2.
7. Recommend to the Executive Director for Operations, through the DEDO, changes to rules and policies for Commission consideration concerning enforcement matters.
8. Provide guidance and training on implementation of the Commission's Enforcement Program.
9. Review proposals to mitigate penalties.

The Director, OE, shall notify or consult with the Commission consistent with the Enforcement Policy. Notification will typically be provided by the Enforcement Notification (EN) process. Consultation will involve additional communication prior to the EN on a case by case basis.

The authority hereby delegated to the Director, OE, may be re-delegated subject to the written approval of the DEDO. Such redelegations must be made in writing and a copy filed with the Secretary of the Commission, the General Counsel, the Director, Office of Human Resources, and the Director, Office of Administration. This authority is subject to the following limitations:

1. The Director, OE, cannot delegate the authority to approve, sign, or issue immediately effective orders.
2. The Director, OE, cannot redelegate the authority to approve, sign, or issue civil penalties to individuals licensed pursuant to 10 CFR Part 55.

This delegation supersedes all previous delegations of authority to the Director, OE, regarding enforcement actions. This delegation and any redesignations shall be reflected in the NRC Management Directive System.

cc:

L. Reyes, EDO
B. Mallett, DEDR
D. Ash, DEDIA
T. Hagan, ADM
Regional Administrators
Office Directors
SECY
OGC

C. Carpenter

3. Ensure that regional enforcement programs are adequately carried out.
4. Prepare letters requesting investigations, confirming actions, or obtaining information under sections 161(c) or 182 of the Atomic Energy Act of 1954, as amended (AEA).
5. Prepare subpoenas to licensees, companies, individuals, or other persons to obtain information to assist the Commission in the administration and enforcement of the AEA.
6. Take necessary or appropriate action in accordance with the decision of an Administrative Law Judge, the Atomic Safety and Licensing Board, or the Commission after enforcement hearings pursuant to Title 10 of the *Code of Federal Regulations* Part 2.
7. Recommend to the Executive Director for Operations, through the DEDO, changes to rules and policies for Commission consideration concerning enforcement matters.
8. Provide guidance and training on implementation of the Commission's Enforcement Program.
9. Review proposals to mitigate penalties.

The Director, OE, shall notify or consult with the Commission consistent with the Enforcement Policy. Notification will typically be provided by the Enforcement Notification (EN) process. Consultation will involve additional communication prior to the EN on a case by case basis.

The authority hereby delegated to the Director, OE, may be re-delegated subject to the written approval of the DEDO. Such redelegations must be made in writing and a copy filed with the Secretary of the Commission, the General Counsel, the Director, Office of Human Resources, and the Director, Office of Administration. This authority is subject to the following limitations:

1. The Director, OE, cannot delegate the authority to approve, sign, or issue immediately effective orders.
2. The Director, OE, cannot redelegate the authority to approve, sign, or issue civil penalties to individuals licensed pursuant to 10 CFR Part 55.

This delegation supersedes all previous delegations of authority to the Director, OE, regarding enforcement actions. This delegation and any redesignations shall be reflected in the NRC Management Directive System.

cc:

L. Reyes, EDO
 B. Mallett, DEDR
 D. Ash, DEDIA
 T. Hagan, ADM
 Regional Administrators
 Office Directors
 SECY
 OGC

DISTRIBUTION:

C. Carpenter, OE M. Virgilio, DEDMRT B. Mallett, DEDR M. Itzkowitz, OGC OE Staff
 S. McAndrew, OGC M. Schwartz, OE J. Wray, OE Enforcement Coordinators
 Day File

ADAMS PACKAGE No.: ML080100396 EDATS: OE-2008-0001

X Publicly Available X Non-Sensitive

OFFICE	OE	OE	OE	OE	TEDITOR
NAME	JWray	MSchwartz	NHilton	CCarpenter	HChang
DATE	12/19/07	12/19/07	1/4/08	1/4/08	1/09/08
OFFICE	OGC	OGC	OGC	DEDMRT	
NAME	SMcAndrew	MItzkowitz	SBurns	MVirgilio	
DATE	1/10/08	1/10/08	1/10/08	1/17/08	