

March 22, 2011

MEMORANDUM TO: Michael R. Johnson, Director  
Office of New Reactors

Eric J. Leeds, Director  
Office of Nuclear Reactor Regulation

FROM: R. W. Borchardt */RA by Martin J. Virgilio for/*  
Executive Director for Operations

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

The U.S. Nuclear Regulatory Commission (NRC) formed the Office of New Reactors (NRO) in response to the staff requirements memorandum dated July 21, 2006, related to SECY-06-0144, "Proposed Reorganization of the Office of Nuclear Reactor Regulation and Region II," dated June 24, 2006 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML062050196). A delegation of authority to the Director of NRO was issued on November 17, 2006 (ADAMS Accession No. ML062900300). This revised delegation is being issued to clarify the licensing review responsibilities related to new nuclear reactor facilities and to the completion of nuclear reactor facilities that were issued construction permits before the creation of NRO.

As used in this memorandum, the phrase "nuclear reactor facilities" refers to facilities licensed under either Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," or 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," for which construction permits, operating licenses, limited work authorizations, early site permits, design certifications, combined licenses, design approvals, or manufacturing licenses have been applied for or issued or other activities authorized. The phrases "new nuclear reactor facilities" and "new reactors," as used in this memorandum, refer to those nuclear reactor facilities not issued a construction permit before November 17, 2006, and any power reactor designated as Generation III, Generation III+, or Generation IV under the designations typically used by the U.S. Department of Energy (DOE). Examples of nuclear reactor facilities that would not be considered "new nuclear reactor facilities" include Watts Bar Unit 2 and Bellefonte Units 1 and 2. The licensing authority (e.g., revisions to construction permits and issuance of operating licenses) for these new nuclear reactor facilities remains within the Office of Nuclear Reactor Regulation (NRR). The licensing of facilities under the research and test reactor provisions of 10 CFR Part 50 would also remain within the responsibilities assigned to NRR. The Executive Director for Operations (EDO) will assign review responsibilities for facilities not addressed herein on a case-by-case basis.

NRO will have lead authority for activities related to new nuclear reactor facilities during preliminary preapplication 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 new reactors at least 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 are met pursuant to 10 CFR 52.103(g). As established by the delegation memorandum issued November 17, 2006, licensing and oversight authority for new nuclear reactor facilities will reside in NRR during their period of operation. NRC staff and management are evaluating industry projections and possible changes to the defined alignment of responsibilities for the licensing and oversight of such facilities during the operating period. A future delegation memorandum will address the NRC organizational roles and responsibilities for licensing and oversight of new nuclear reactor facilities as they commence operation.

NRO has the following specific functions:

- Review, evaluate, and process applications for licenses, certifications, and permits, and amendments thereto for new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- Coordinate with the Office of Nuclear Security and Incident Response (NSIR) the reviews and evaluations of emergency plans for new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52. Participate with NSIR in reviews and evaluations of U.S. Department of Homeland Security (DHS) and the Federal Emergency Management Agency findings and determinations relating to offsite responses by State and local governments. Develop, in coordination with NSIR, overall NRC evaluation of reactor licensee/applicant onsite/offsite emergency preparedness plans.
- Coordinate with NSIR the reviews and evaluations of the security requirements found in 10 CFR Part 73, "Physical Protection of Plants and Materials," Part 74, "Material Control and Accounting of Special Nuclear Material," and Part 26, "Fitness for Duty Programs." The requirements include the need for a cyber-security plan, physical security plan, and a safeguards contingency plan, security force training and qualification plan, access authorization program, and alcohol and drug testing program. Participate with NSIR in consultations with DHS concerning the potential vulnerabilities of the location of the proposed facility.
- Conduct, with support from other offices, the initial indemnification program for new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 in accordance with the provisions of the Price Anderson Act, including Sections 170c and 170k of the Atomic Energy Act of 1954, as amended.
- Review, evaluate, and make safety findings on problems and incidents that result from the design or construction of new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- Develop policies, regulations, and procedures regarding prompt identification of construction, manufacture, or design-related problems for new nuclear reactor facilities being licensed under 10 CFR Part 50 and 10 CFR Part 52. Coordinate 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 Nuclear Regulatory Research (RES), including development and dissemination of generic communications.

- Develop and direct the implementation of policies and programs for the construction inspection program and other regional inspection of new nuclear reactor facilities licensed under 10 CFR Part 50 and 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.
- As appropriate, assist or perform inspections of new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 and contractors and suppliers to nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- Exercise oversight of all reactor inspection and licensing programs for new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 before the initial commencement of operation. Provide programmatic and implementation direction to the construction inspection program in the regional offices in the conduct of reactor inspection and licensing programs for new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52. The assignment of a lead program office for licensing and oversight authority during the operation of new nuclear reactor facilities will be the subject of a future delegation memorandum.
- Develop and implement a comprehensive NRC program for the inspection of vendors throughout the United States and foreign countries who supply goods and services to new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- Ensure that a comprehensive quality assurance program is applied to the design, fabrication, construction, and testing of new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52. This encompasses licensees, vendors, architect-engineers, constructors, and other licensee agents and contractors.
- Participate, 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.
- Participate, as requested, in evaluations of the nuclear safety aspects of proposals to build new nuclear reactor facilities at DOE or U.S. Department of Defense (DOD) facilities.
- Serve as the principal point of contact for the Multinational Design Evaluation Program (MDEP).
- Identify research needs required for NRO programs and make appropriate recommendations to RES regarding the development of regulatory guides, resolution of generic safety issues, and other activities related to new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.

- Serve as the principal point of contact with the Advisory Committee on Reactor Safeguards for new reactor matters under its review.
- Coordinate with State and local governments and other Federal agencies, in collaboration with the Regions' State Liaison Officers and the Office of Federal and State Materials and Environmental Management Programs regarding need-for-power determinations or other permitting issues related to new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- Ensure that new facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 report their nationally tracked sources to the National Source Tracking System as defined in 10 CFR 20.2207.
- Develop procedures and other infrastructure to ensure the timely scheduling, review, and processing of matters under NRO review.
- Supervise, direct, coordinate, and approve the activities, including administrative functions, of the various organizational units within NRO.
- Perform 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:

- Issue and amend licenses, design certifications, design approvals, permits, and limited work authorizations for new nuclear reactor facilities under 10 CFR Part 50 and 10 CFR Part 52 before the initial commencement of operation, to the extent any required findings for such issuance or amendment have been made by an Atomic Safety and Licensing Board, an Administrative Law Judge, or the Commission after a hearing pursuant to 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders." 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, new nuclear power facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- 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 50 and 10 CFR Part 52 before the initial commencement of operation.
- Consistent with NRC regulations, grant exemptions from NRC regulations or impose special conditions on nuclear power facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 before the initial commencement of operation.
- Issue, pursuant to 10 CFR Part 2, notices of denial or the proposed denial of the following:
  - applications for licenses, design certifications, design approvals, or permits for new nuclear power facilities under 10 CFR Part 50 and 10 CFR Part 52 before the initial commencement of operation

- applications for amendments to licenses, design certifications, design approvals, or permits for new nuclear power facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 before the initial commencement of operation
- 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.
- Pursuant to the provisions of 10 CFR 2.202, “Orders,” and 10 CFR 2.204, “Demand for Information,” issue orders to modify, suspend, or revoke licenses or to require other appropriate action concerning the manufacture, design, construction, and operation of nuclear power facilities licensed under 10 CFR Part 50 and 10 CFR Part 52, and the use of source, byproduct, and special nuclear materials, provided that such actions may be subject to revision to the extent applicable findings are made by an Atomic Safety and Licensing Board, Administrative Law Judge, or the Commission after a hearing pursuant to 10 CFR Part 2.
- Execute indemnification agreements with licensees pursuant to Sections 170c and 170k of the Atomic Energy Act of 1954, as amended.
- Pursuant to 10 CFR Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,” prepare and issue draft and final environmental impact statements, environmental assessments, and findings of no significant impact on licensing actions within delegated authority.
- 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 Operations Center.
- 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.
- Issue documents, as directed, regarding the nuclear safety aspects of proposals to build or significantly modify new nuclear reactor facilities located at DOE or DOD facilities.
- Issue documents, as directed, in support of international activities such as the MDEP.
- Issue documents and otherwise support the activities of the Advisory Committee on Reactor Safeguards for matters related to new nuclear power facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- Develop policy options for Commission consideration on matters within delegated authority.
- Perform all functions of the Federal “Agency Official,” as that term is defined in 36 CFR Part 800.2, “Protection of Historic Properties - Participants in the Section 106 process,” and execute such memoranda of agreement as are prescribed by those procedures.

- Issue appropriate *Federal Register* notices related to matters within delegated authority, including notices that 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.
- 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.
- Issue letters or other notices to licensees, permit holders, applicants, or other appropriate individuals or organizations with respect to activities (including preapplication activities) related to new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52. Provide policy and procedures for the issuance of letters and notices by regional offices concerning inspections and licensing matters for new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- Issue director's decisions and other correspondence related to petitions filed in accordance with 10 CFR 2.206, "Requests for Action under This Subpart," regarding matters involving new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 before the initial commencement of operation.
- Respond to controlled and routine correspondence related to new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 or otherwise assigned to NRO.
- Serve as the New Reactor Program lead in preparing budget recommendations in support of all new reactor activities.
- Supervise, direct, coordinate, and approve the activities of the various organizational units within NRO.

This delegation of authority is effective as of the date of this memorandum. 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 redelegation, including any limitations on further redelegations, must be made in writing and preserved as an official agency record in ADAMS.

- Issue appropriate *Federal Register* notices related to matters within delegated authority, including notices that 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.
- 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.
- Issue letters or other notices to licensees, permit holders, applicants, or other appropriate individuals or organizations with respect to activities (including preapplication activities) related to new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52. Provide policy and procedures for the issuance of letters and notices by regional offices concerning inspections and licensing matters for new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52.
- Issue director's decisions and other correspondence related to petitions filed in accordance with 10 CFR 2.206, "Requests for Action under This Subpart," regarding matters involving new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 before the initial commencement of operation.
- Respond to controlled and routine correspondence related to new nuclear reactor facilities licensed under 10 CFR Part 50 and 10 CFR Part 52 or otherwise assigned to NRO.
- Serve as the New Reactor Program lead in preparing budget recommendations in support of all new reactor activities.
- Supervise, direct, coordinate, and approve the activities of the various organizational units within NRO.

This delegation of authority is effective as of the date of this memorandum. 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 redelegation, including any limitations on further redelegations, must be made in writing and preserved as an official agency record in ADAMS.

**DISTRIBUTION:** EDATS: NRO-2011-0001

NRO R/F	RidsSecyMailCenter	RidsEDOMailCenter	RidsNsirOd
RidsNrrPmas	RidsOcfoMailCenter	RidsOigMailCenter	RidsOipMailCenter
RidsOpaMail	RidsAcrcAcnwMailCenter	RidsAdmMailCenter	RidsOeMailCenter
RidsHrMailCenter	RidsSbcrMailCenter	RidsNmssOd	RidsRgn1MailCenter
RidsNrrOd	RidsRgn2MailCenter	RidsRgn3MailCenter	RidsRgn4MailCenter
RidsOgcMailCenter	RidsOis	RidsOiMailCenter	RidsResOd

**ADAMS Accession No.: ML103140191**

**\*Via e-mail**

**EDO-001**

OFFICE	Tech Editor*	NRO/ARP/ARB1	NRO/ARP/ARB1	NRO/ARP	OGC
NAME	KAzariah-Kribbs	LTello	WReckley	MMayfield	RABaum
DATE	11/14/2010	11/17/2010	11/18/2010	11/18/2010	11/23/2010
OFFICE	NRO/DNRL	NRO/OD	NRR/OD	OGC (NLO)	EDO
NAME	DMatthews	MJohnson	ELeeds	SMcAndrews	RWBorchardt (MVirgilio for)
DATE	12/17/2010	12/22/10	1/07/11	3/21/2011	3/22/11

**OFFICIAL RECORD COPY**