



REQUEST REPLY BY: 7/7
UNITED STATES NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

COMSECY-04-0037

June 21, 2004

Disapproved with comments. See attached comments.

Nils J. Diaz 7/29/04

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: Luis A. Reyes
Executive Director for Operations

SUBJECT: FITNESS-FOR-DUTY ORDERS TO ADDRESS FATIGUE OF NUCLEAR FACILITY SECURITY FORCE PERSONNEL

This memorandum forwards standard cover letters, Orders, and additional security measures (ASMs) (Attachments 1-5) to address concerns regarding fatigue of security force personnel at five classes of NRC-licensed facilities. These facilities are: (1) Independent Spent Fuel Storage Installations; (2) Decommissioning Reactors; (3) Category I Fuel Cycle Facilities; (4) Gaseous Diffusion Plants; and (5) the Natural Uranium Conversion Facility. Attachment 6 provides detailed comments by stakeholders from two meetings with each class of licensee that took place between September 2003, and February 2004.

The draft Orders and ASMs were developed in response to the December 26, 2002, Staff Requirements Memorandum (SRM) for COMSECY-02-0066, "Fitness for Duty Enhancements to Address Concerns Regarding Fatigue of Nuclear Facility Security Force Personnel—Draft Order and Compensatory Measures for Power Reactor Licensees," which directed the staff to propose work-hour limits for security force personnel at independent spent fuel storage installations (ISFSIs), decommissioning reactor facilities, Category I fuel cycle facilities, gaseous diffusion plants (GDPs), and the Honeywell facility. On June 20, 2003, the staff submitted COMSECY-03-0027, which contained the original draft Orders and compensatory measures (CMs), to the Commission, proposing work-hour limits for security force personnel at the facilities. The Commission's August 6, 2003, SRM on COMSECY-03-0027 directed the staff to engage external stakeholders regarding fatigue of security force personnel and submit proposed final Orders and CMs to the Commission.

CONTACT: Alexander P. Sapountzis, NSIR/DNS
301-415-7822

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Comments by Chairman Diaz on COMSECY-04-0037:

I disapprove the issuance of these proposed Orders. I agree with Commissioner Merrifield that we have seen no evidence of a significant problem with fatigue of security forces at these facilities. If the staff observes significant fatigue-related issues at these facilities, the Commission should be informed promptly. Although I voted in favor of developing Orders in my vote on COMSECY-03-0027, I recognize that there are several disparate types of facilities involved, and their security needs vary. The rulemaking process is an appropriate way to address these requirements by allowing for interactions with our stakeholders and allowing the Commission to make a better informed decision. The staff should therefore pursue rulemaking instead of Orders for these facilities. Since this issue has already had significant consideration, the staff should proceed to the proposed rule stage without the need for a formal rulemaking plan.





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Approved
Edward McGaffigan
7/15/04



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UNITED STATES

NUCLEAR REGULATORY COMMISSION

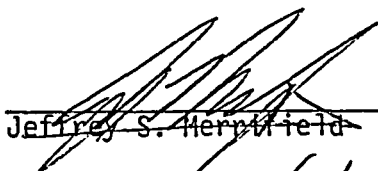
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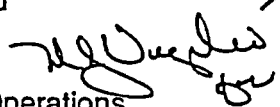
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June 21, 2004

Disapproved with attached comments.

MEMORANDUM TO: Chairman Diaz
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Commissioner Merrifield


~~Jeffrey S. Merrifield~~

FROM: Luis A. Reyes 
Executive Director for Operations

Date: 6/29/04

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Comments from Commissioner Merrifield on COMSECY-04-0037:

Consistent with my vote on COMSECY-03-0027, I disapprove issuance of orders concerning fitness for duty enhancements to address fatigue concerns for security force personnel at (1) Independent Spent Fuel Storage Installations, (2) Decommissioning Reactors, (3) Category I Fuel Cycle Facilities, (4) Gaseous Diffusion Plants, and (5) the Natural Uranium Conversion Facility. I have seen no evidence that these specific facilities have a verifiable significant problem with fatigue of their respective security forces. Where exigent circumstances do not exist, I do not believe an Order is warranted. Therefore, given the absence of definitive evidence, if fatigue of security forces is a potential concern at these facilities, the issue should be addressed through rulemaking.



6/25/04