



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

COMSECY-05-0049R

REQUEST REPLY BY: 11/9  
October 24, 2005

Approve with comments. See attached comments.

MEMORANDUM TO: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

*Nils J. Diaz*  
Nils J. Diaz 11/10/05

FROM: Luis A. Reyes  
Executive Director for Operations

*Luis A. Reyes*

SUBJECT: DELEGATION OF AUTHORITY FOR IMMINENT SECURITY THREATS  
TO NRC LICENSEES

05 OCT 25 AM 11:35  
CHAIRMAN PFC:IN


This memorandum forwards a limited re-delegation of authority for your consideration. The limited re-delegation of authority would allow certain NRC executives to issue "immediately effective orders" to NRC licensees in accordance with 10 CFR § 2.202 when urgent action is needed to mitigate potential radiological consequences of an imminent security threat. The delegated authority will only be implemented by those NRC executives with the authority to issue orders and under the specific limited circumstances described in the memorandum.

To date, both licensees and NRC staff have accomplished a great deal to develop and implement emergency plans and mitigative strategies to minimize the potential for radiological consequence from a security threat. Agreements have been made with the North American Air Defense (NORAD) command to quickly notify NRC of any suspect aircraft in the vicinity of NRC reactor licensees. The NRC has required licensees to develop and implement imminent attack procedures. These procedures contain actions designed to both minimize the potential for and reduce the radiological consequences of an attack. Licensees have been training licensed operators to implement these procedures. The staff are currently implementing tabletop phone drills with licensed senior operators using a protocol developed with NORAD. The staff intends to complete these tabletops by the end of October and develop lessons learned from which further actions may be developed. In addition, the staff issued NRC Bulletin 2005-02, "Emergency Preparedness and Response Actions for Security-Based Events," and are currently reviewing licensee's response. The staff believes that this delegation of authority would be implemented under very unlikely circumstances due, in part, to these efforts. Nevertheless, this delegation is considered an important aspect in the NRC response to these types of events.

Section 161n of the Atomic Energy Act of 1954 (the Act), as amended, provides the Commission with general authority to delegate its functions under the Act to other offices of the Commission, except with respect to certain determinations, findings, actions, certifications, functions, and approvals required of or made by the Commission pursuant to Sections 51, 57b, 61, 108, 123, 145b, 145f, and 161a. These exceptions are discussed in NRC Management Directive (MD) 9.17, "Office of the Executive Director for Operations," Handbook 9.17, Part II, and do not prohibit the delegation of the authority described herein.

CHAIRMAN'S COMMENTS ON COMSECY-05-0049R

I approve the staff's proposal, which is intended to provide a limited number of NRC senior managers the authority to issue immediately effective orders orally to one or more licensees in the event of an imminent security threat requiring such urgent action that insufficient time exists to invoke the emergency powers reserved to the Chairman or his designee in accordance with Presidential Reorganization Plan No.1 of 1980. The staff should revise the appropriate Management Directives and current Operations Center procedures to incorporate this delegation and to ensure that the Chairman and the Commission will be notified immediately whenever such an order is issued.

If the Chairman or his designee invokes the emergency powers provided to the Chairman by section 3 of Reorganization Plan No.1 of 1980, the authority to issue orders under this delegation for the duration of that emergency is superceded. The EDO's memorandum delegating the authority to issue immediately effective orders orally, the appropriate Management Directives, and the current Operations Center procedures should be revised to make this limitation explicit. 



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REQUEST REPLY BY: 11/9  
October 27, 2005

MEMORANDUM TO: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

*Approved*  
*E. McInerney*  
10/28/05

FROM: Luis A. Reyes  
Executive Director for Operations

*Luis A. Reyes*

SUBJECT: DELEGATION OF AUTHORITY FOR IMMINENT SECURITY THREATS  
TO NRC LICENSEES

This memorandum forwards a limited re-delegation of authority for your consideration. The limited re-delegation of authority would allow certain NRC executives to issue "immediately effective orders" to NRC licensees in accordance with 10 CFR § 2.202 when urgent action is needed to mitigate potential radiological consequences of an imminent security threat. The delegated authority will only be implemented by those NRC executives with the authority to issue orders and under the specific limited circumstances described in the memorandum.

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October 24, 2005

MEMORANDUM TO: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

*Approved.*

FROM: Luis A. Reyes  
Executive Director for Operations

*[Handwritten signature]*  
*[Handwritten signature]*  
10/27/05

SUBJECT: DELEGATION OF AUTHORITY FOR IMMEDIATE SECURITY THREATS  
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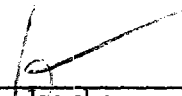
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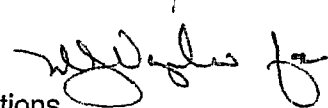
REQUEST REPLY BY: 11/19

October 24, 2005

Approved subject to attached comments.

MEMORANDUM TO: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

  
\_\_\_\_\_  
Gregory B. Jaczko 11/19  
Date

FROM: Luis A. Reyes  
Executive Director for Operations 

SUBJECT: DELEGATION OF AUTHORITY FOR IMMINENT SECURITY THREATS  
TO NRC LICENSEES

This memorandum forwards a limited re-delegation of authority for your consideration. The limited re-delegation of authority would allow certain NRC executives to issue "immediately effective orders" to NRC licensees in accordance with 10 CFR § 2.202 when urgent action is needed to mitigate potential radiological consequences of an imminent security threat. The delegated authority will only be implemented by those NRC executives with the authority to issue orders and under the specific limited circumstances described in the memorandum.

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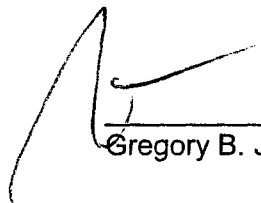
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**Commissioner Gregory B. Jaczko's Comments on COMSECY-05-0049R**  
Delegation Of Authority For Imminent Security Threats to NRC Licensees

I approve of a further delegation of authority to allow the Deputy Executive Director for Reactor Preparedness Programs, the Deputy Executive Director for Materials, Research, State and Compliance Programs, and the Director of the Office of Nuclear Security and Incidence Response, to issue "immediately effective orders" to NRC licensees when urgent action is needed to mitigate the potential radiological consequences of an imminent security threat.

I appreciate the efforts of the staff to ensure it is possible to promptly reach an NRC official with the necessary authority to handle an emergency. Because of the importance of this responsibility, the operations center should be instructed to attempt to reach the Chairman or Acting Chairman (or the Executive Director for Operations at the Chairman's discretion) first and then work its way down the contact list in order of seniority. Regular communications testing should be performed to ensure that appropriate officials can be quickly contacted.

This authority should be further delegated to the officials who serve in the positions listed above and to any staff who are temporarily "acting" in those capacities. The operations center should be able to reach one of the seven officials who will now have this authority, and therefore it is unnecessary to delegate it below the office director level.

  
11/14/05  
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Gregory B. Jaczko



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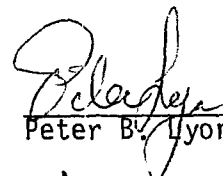
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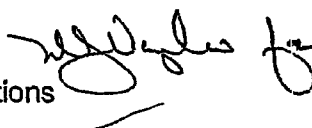
October 24, 2005

Approved with comments.

MEMORANDUM TO: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

  
Peter B. Lyons      11/15/05  
Date

FROM: Luis A. Reyes  
Executive Director for Operations



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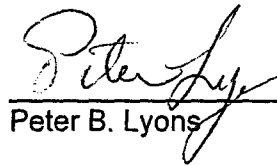
**Commissioner Lyons' comments on COMSECY-05-0049R**


**Delegation of Authority for Imminent Security Threats to NRC Licensees**

I support the Chairman's vote on this COMSECY, subject to the following additional comment.

Should the Headquarters Operations Officer (HOO) be required to effect a callout of the NRC executives in which the subject authority is vested, in either a prescribed sequence or in a 'broadcast/blast' manner to all, it is likely that precious time could be wasted in contacting and/or selecting the most appropriate decision-maker. Given the time urgency under the anticipated scenarios, it would appear highly desirable to consider the creation of a procedure in which one member having this authority is designated as the first to be called in any given period of time and who commits to maintaining the means to be immediately reachable at all times during their duty period.

Thus, I would also suggest that the staff consider developing a procedure to ensure that at least one of the executives vested with the subject authority are known by the HOO to be immediately reachable at any given time, so as to ensure the most timely contact and decision-making possible under the anticipated circumstances.

  
Peter B. Lyons

  
Date