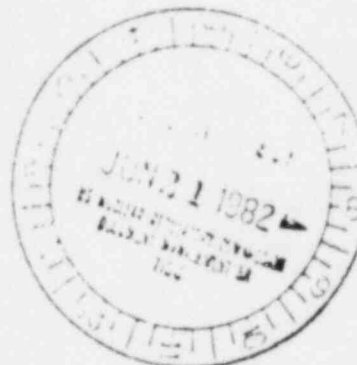


June 9, 1982



SECY-82-239

POLICY ISSUE



For: The Commission (Invitation Vote)
From: William J. Dircks
Executive Director for Operations

Subject: DELEGATION OF SUBPOENA AUTHORITY

Purpose: To delegate to the Executive Director for Operations the authority to issue subpoenas during the course of investigations or inspections, with the power to redelegate that authority to the Director, Office of Inspection and Enforcement, and to Regional Administrators.

Discussion: Section 161(c) of the Atomic Energy Act of 1954, as amended, authorizes the Commission to "administer oaths and affirmations, and by subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place." On August 21, 1979 the Chairman delegated authority to administer oaths and affirmations to the Director, Office of Inspection and Enforcement. This authority, since redelegated to the five Regional Administrators, has proved to be a valuable tool when used in furtherance of investigations and inspections. Similarly, the subpoena authority provided under Section 161(c) has also proved invaluable, although this authority has not yet been delegated to the Staff. In several instances, the use of a subpoena was considered necessary by the Director of the Office of Inspection and Enforcement to further an ongoing investigation. In each case the Commission has concurred that the need for a subpoena was valid and authorized its issuance.

Most recently, during the past month, subpoena power was sought to assist the Administrators of Region I and Region IV in ongoing investigations. During the Commission meeting on the request for Region I, the question of a general delegation of subpoena authority was discussed. A general delegation of subpoena authority to the staff would be of assistance in efficiently conducting inspections and investigations. Such a delegation would avoid in the middle of an ongoing inspection or investigation the delay associated with obtaining a specific delegation directly from the Commission.

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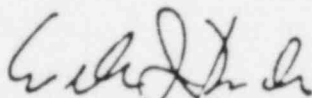
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The Staff recognizes that investigations will in the future be conducted by the Commission's Office of Investigations. However, that office is not yet operational nor is the jurisdiction (investigations vs inspections) of that office delineated. The Staff, therefore, believes that it may in the future need to obtain subpoenas as part of inspections which it may conduct and investigations pending the activation of the Office of Investigations.

Recommendation:

That the Commission delegate to the Executive Director for Operations for further delegation to the Director of the Office of Inspection and Enforcement and Regional Administrators the authority to issue subpoenas where necessary or appropriate for the conduct of inspections or investigations. The issuance of any subpoena will require the concurrence of the Office of the Executive Legal Director and consultation with the Office of Investigation. A draft delegation is enclosed.

Note that the Acting Director of the Office of Investigations concurs with this request.



William J. Dircks
Executive Director for Operations

Enclosure:

Draft Delegation of
Authority Memorandum

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Monday, June 28, 1982.

Commission Staff Offices comments, if any, should be submitted to the Commissioners NLT Monday, June 21, 1982, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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