

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

MD 9.10

**ORGANIZATION AND FUNCTIONS,
OFFICE OF THE SECRETARY**

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Volume 9: Organization and Functions

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EXECUTIVE SUMMARY

Along with minor editorial changes, Management Directive 9.10 is being revised to—

- Eliminate the statement that priorities for Commission action on SECY Papers are established in Commissioner Assistant meetings;
- Eliminate the annual Government in the Sunshine Act report to Congress, which is no longer required;
- Add Commission nominee and orientation notebooks under functions;
- Delete the need for the Secretary to act on requests to the Commission pursuant to Section 145(b) of the Atomic Energy Act of 1954, as amended, regarding granting of access to Restricted Data and National Security Information before a security clearance is issued;
- Eliminate the statement that the Executive Assistant to the Secretary makes initial Freedom of Information Act determinations for individual Commissioner offices; and
- Update the role of the Advisory Committee Management Officer and add the Federal Advisory Committee Act to the references.

TABLE OF CONTENTS

I. SUPERVISION.....	2
II. FUNCTIONS	2
III. DELEGATION OF AUTHORITY TO THE SECRETARY OF THE COMMISSION.....	4
IV. REDELEGATION OF AUTHORITY BY THE SECRETARY OF THE COMMISSION.....	7
V. REDELEGATION OF AUTHORITY TO THE SENIOR ADVISOR TO THE SECRETARY	7
VI. REDELEGATION OF AUTHORITY TO THE EXECUTIVE ASSISTANT TO THE SECRETARY	7
VII. ORGANIZATIONAL STRUCTURE AND INTERNAL ASSIGNMENTS	7
VIII. REFERENCES.....	11

I. SUPERVISION

The Office of the Secretary is under the supervision of the Secretary of the Commission, who reports to the Commission.

II. FUNCTIONS

- A.** The office provides executive management services to support the Commission and to implement Commission decisions; advises and assists the Commission and the U.S. Nuclear Regulatory Commission staff on the planning, scheduling, and conduct of Commission business; manages the Commission's decisionmaking processes (SECY Paper and COM/COMSECY processes); monitors NRC staff compliance with pending issues and commitments; processes and controls Commission correspondence; maintains the Commission's adjudicatory and rulemaking dockets; maintains the Commission's internal procedures; administers the NRC historical program and maintains the Commission's current and historical paper records collection; fulfills the role of the NRC Federal Advisory Committee Management Officer; and integrates automation initiatives into the Commission's administrative systems. Specifically, the office—
1. Prepares the Commission's weekly meeting agenda and maintains a forecast of matters for future Commission consideration.
 2. Prepares for and records Commission meetings, codifies decisions and directions in memoranda directing NRC staff action, and monitors compliance.

3. Provides, in accordance with the Government in the Sunshine Act (GISA), appropriate public notice of open and closed Commission meetings.
4. Plans, directs, and administers the NRC Commission Staff Paper system, reviewing all proposed Commission Staff Papers for completeness and adequacy and establishing due dates for Commissioner comments.
5. Receives and circulates Commissioner votes on staff papers and develops NRC staff direction (Staff Requirements Memoranda (SRM)) to implement Commission decisions and/or other requirements.
6. Reviews, in coordination with the Office of the General Counsel (OGC), as appropriate, SRMs that have not been designated for public disclosure, as well as the underlying SECY Paper or Commission Action Memorandum (COM), to determine whether the document must be released, in whole or in part, in accordance with the disclosure provisions of the Freedom of Information Act (FOIA) (5 U.S.C. 552(a)(1) or (a)(2)).
7. Administers the COM/COMSECY system; records and transmits Commission decisions and/or requirements to the NRC staff.
8. Holds weekly meetings of Commissioner Assistants to review the status of NRC staff papers, identify problem areas, and seek resolution of pending issues.
9. Coordinates Commissioner Assistant briefings on issues as requested by the NRC staff and the Commission.
10. Manages the Commission's correspondence system; reviews, processes, and dispatches the agency's congressional correspondence, in coordination with the Office of Congressional Affairs, and all principal correspondence addressed to the Chairman, Commissioners, and the Secretary.
11. Serves as agency liaison with the White House on Presidential referrals.
12. Acts as the FOIA coordinator for Commission documents.
13. Develops and operates the Commission's internal decision tracking system for tasks assigned to the NRC staff to ensure timely compliance with Commission decisions.
14. Codifies the procedures that govern the conduct of Commission business at the Commission level (Internal Commission Procedures, available at <http://www.nrc.gov/about-nrc/policy-making/internal.html>).
15. Integrates office automation initiatives into the Commission's administrative system.
16. Maintains the official adjudicatory and rulemaking dockets of the Commission; records, issues, and serves documents in legal matters; receives and distributes public

comments in rulemaking proceedings; and assigns adjudicatory items requiring Commission review to the Office of Commission Appellate Adjudications or OGC for recommendation and/or advice to the Commission and monitors compliance.

17. Provides management direction for the establishment, renewal, and discontinuance of all NRC advisory committees, as defined in the Federal Advisory Committee Act (FACA), and coordinates NRC reporting requirements of the FACA.
18. Develops policies and procedures for the operation of the NRC history program, conducts historical research, and prepares the NRC written history.
19. Maintains official paper records of Commissioner offices, past and present; assists departing Commissioners in preparing their official paper records for retirement; and advises Commissioners on disposition of non-agency records.
20. Coordinates making Commission documents available to the public in the Agency Documents Access and Management System and on the NRC Public Web site, at www.nrc.gov.
21. Coordinates the updating of the Commissioner nominee and orientation notebooks for Presidential nominees to the Commission.

III. DELEGATION OF AUTHORITY TO THE SECRETARY OF THE COMMISSION

A. The Secretary of the Commission is authorized and directed to accomplish the following:

1. Take action as is necessary to carry out the functions assigned by this directive or other official directives or communications, subject to the limitations prescribed therein. Delegations of authority for specific actions and applicable limitations are contained in directives covering specific subjects.
2. Supervise, direct, coordinate, and approve the activities, including administrative functions, of the various organizational units within the Office of the Secretary.
3. Serve as the custodian of the official seal and flag of the Commission with authority to use or make available the seal or flag whenever necessary or proper (10 CFR 1.25(k) and 1.51(c)).
4. Serve as the NRC Federal Advisory Committee Management Officer (10 CFR 1.25(j) and provisions of 10 CFR Part 7), with respect to NRC's advisory committees established under the FACA, and perform the following:
 - (a) Sign all notices for publication in the *Federal Register* announcing the time and location of advisory committee meetings.

- (b) Determine, on the basis of information supplied by advisory committees and review by the General Counsel, whether meetings should be open, closed, or partially closed.
 - (c) Conduct the annual reviews of advisory committees and provide to the General Services Administration (GSA) Committee Secretariat reports as required by the FACA.
 - (d) Provide guidance to the offices regarding requirements for new FACA committees.
- 5. Sign all notices (i.e., proposed and final rules and policy statements) approved by the Commission for public issuance in the *Federal Register* and sign all notices of petitions for rulemaking forwarded for publication in the *Federal Register* (see Management Directive (MD) 6.3, "The Rulemaking Process").
 - 6. Issue orders establishing procedures and timelines for submitting and resolving requests for safeguards or sensitive unclassified non-safeguards information in adjudicatory proceedings (10 CFR 2.307(c)).

B. The Secretary of the Commission takes action on the following:

- 1. Minor procedural matters (e.g., denials of petitions for Commission reconsideration of prior actions where there is no Commission majority favoring reconsideration). This authority is to be exercised in consultation with the Commission.
- 2. Appeals of initial FOIA decisions by heads of committees, boards, and offices reporting directly to the Commission and initial decisions by the Executive Assistant to the Secretary (as detailed in MD 3.1, "Freedom of Information Act"). The Secretary will grant an FOIA appeal only after informing the Commission of the proposed action and the Commission has been given a reasonable opportunity to provide its views to the Secretary. Continued denial of documents requested under an appeal of an FOIA decision is delegated to the Secretary and requires no Commission consultation.
- 3. Minor or corrective amendments to final rules modifying 10 CFR Parts 2, 9 (Subpart C), and 110, that do not involve questions of policy. These amendments will be effected only after the Secretary informs the Commission of the proposed changes, and the Commission has been given a reasonable opportunity to provide its views to the Secretary through the COM process.

- C.** When briefs, motions, or other papers are submitted in adjudicatory or rulemaking proceedings to the Commission, as opposed to officers who have been delegated authority to act for the Commission, the Secretary performs the following:
1. Prescribes schedules for the filing of statements, information, briefs, motions, responses, or other pleadings, where schedules may differ from those elsewhere prescribed in 10 CFR Part 2, or where 10 CFR Part 2 does not prescribe a schedule.
 2. Rules on motions for extensions of time.
 3. Rejects motions, briefs, pleadings, and other documents filed with the Commission later than the time prescribed by the Secretary or established by an order, rule, or regulation of the Commission unless good cause is shown for the late filing.
 4. Prescribes all procedural arrangements relating to any oral argument to be held before the Commission.
 5. Extends the time for the Commission to rule on petitions for review as set forth in 10 CFR Part 2.
 6. Extends the time for Commission to grant review on its own motion under 10 CFR Part 2.
 7. Extends the time for Commission review on its own motion of a director's denial under 10 CFR Part 2.
 8. Directs pleadings improperly filed before the Commission to the appropriate adjudicatory board for action.
 9. Denies requests for hearings that fail to comply with the pleading requirements set forth in 10 CFR Part 2 and that fail to set forth an arguable basis for further proceedings. This authority will be exercised only after the Commission is polled.
 10. Refers to the Chief Administrative Judge, Atomic Safety and Licensing Board Panel, as appropriate, petitions for hearing (except petitions for hearing falling under 10 CFR 2.104) where the requester is entitled to further proceedings.
 11. Takes action on minor procedural matters.
 12. Certifies true copies of official NRC documents.
- D.** The Secretary takes administrative action as is necessary to carry out the provisions of the GISA.

IV. REDELEGATION OF AUTHORITY BY THE SECRETARY OF THE COMMISSION

- A.** The Secretary may, except where expressly prohibited, redelegate in writing to others in the Office of the Secretary, authority delegated to the Secretary by this or other official directives or communications, subject to the limitations stated in this directive, and to any other limitations as may be deemed necessary by the Secretary.
- B.** The Secretary will send a memorandum to the Commission specifying the redelegation, with a copy to the Executive Director for Operations, the General Counsel, and the Chief Human Capital Officer.
- C.** The Secretary will stipulate any limitations on further redelegations of authority he or she makes.
- D.** The Secretary will maintain a file of all redelegations.

V. REDELEGATION OF AUTHORITY TO THE SENIOR ADVISOR TO THE SECRETARY

- A.** The Senior Advisor is authorized to act for the Secretary during his or her absence.
- B.** The Senior Advisor acts as the NRC Federal Advisory Committee Management Officer.

VI. REDELEGATION OF AUTHORITY TO THE EXECUTIVE ASSISTANT TO THE SECRETARY

- A.** The Executive Assistant to the Secretary makes initial determinations on FOIA requests for documents originated in the Office of the Secretary.
- B.** The Executive Assistant to the Secretary acts, on the advice of the Chairman, as the denying official for initial denial of Commission records and individual Commissioner records, as defined in 10 CFR 9.25, and advisory records. Documents determined by OGC to be legally withholdable require Commission approval prior to discretionary release.

VII. ORGANIZATIONAL STRUCTURE AND INTERNAL ASSIGNMENTS

- A.** The Secretary directs and administers overall Secretariat staff functions and ensures that appropriate policies and procedures are developed and maintained for carrying out these functions. The Secretary also directs and oversees the office automation program and determines management improvements to be applied to SECY's and the Commission's administrative systems.

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- B.** The Senior Level Advisor performs functions of the NRC Federal Advisory Committee Management Officer and maintains liaison with the advisory committees. Prepares the annual report to GSA on NRC committee activities.
- C.** The Executive Assistant to the Secretary makes initial determinations on FOIA requests for documents originated in the Office of the Secretary.
- D.** The Operations Staff—
1. Plans and schedules the Commission's business by development, issuance, and publication of the Commission schedule.
 2. Maintains, in coordination with the Executive Director for Operations and other offices that report directly to the Commission, a forecast of subjects and issues for future Commission consideration.
 3. Provides, in accordance with the requirements of the GISA, appropriate public notice of open and closed meetings.
 4. Coordinates preparations for Commission meetings to include the following: arrangement for NRC staff and outside stakeholder attendance, availability of pertinent documentation and visual aids, arrangements for recording and audiovisual systems, and other logistical support as required.
 5. Prepares and maintains appropriate records of Commission meetings; records decisions or other action taken by the Commission at these meetings; and notifies the appropriate NRC staff of actions required to implement Commission decisions, directives, and requests stemming from Commission meetings.
 6. Coordinates public release of meeting documents.
 7. Manages the Commission's Staff Paper system and reviews all proposed Commission Staff Papers for completeness and adequacy; establishes due dates for Commissioner and Commission staff comments.
 8. Receives and distributes Commissioner votes and comments on staff papers, analyzes and synthesizes Commissioner comments and identifies substantive issues requiring resolution among Commissioners, proposes solutions and coordinates efforts to resolve differences with the objective of establishing a majority position, and prepares directive documentation (SRMs) to implement Commission decisions and/or identify other requirements accruing from Commissioner voting on staff papers.
 9. Manages the COM/COMSECY system; receives and circulates Commissioner comments and records and transmits Commission decisions and/or requirements.

10. Reviews, in coordination with OGC, as appropriate, SRMs that have not been designated for public disclosure, as well as the underlying SECY Paper or COM/COMSECY, to determine whether the document must be released, in whole or in part, in accordance with the disclosure provisions of 5 U.S.C. 552(a)(1) or (a)(2).
11. Holds weekly meetings of Commission Assistants to review status of staff papers, identify problem areas, and seek resolution of open issues.
12. Coordinates briefings requested by the NRC staff and Commission of Commissioner Assistants on issues.
13. Maintains current status of all papers pending action by the Commission.
14. Administers a Commission Tracking System for tasks assigned to the NRC staff to ensure timely compliance with Commission decisions.

E. The Correspondence and Records Staff—

1. Manages the Commission's correspondence system and receives, records, and assigns action and suspense dates, and makes appropriate distribution of all principal correspondence addressed to the Chairman, the Commission, and the Office of the Secretary.
2. Maintains continuous and current status of this correspondence to ensure appropriate and timely response by NRC.
3. Receives, coordinates, and processes outgoing principal correspondence; establishes due dates for Commissioner and Commission staff comments.
4. Serves as agency liaison with the White House on Presidential referrals.
5. Maintains the Commission's official paper records, including SECY Papers and COM/COMSECYs.
6. Reviews and transmits to the *Federal Register* all documents issued at the Commission level requiring publication therein.
7. Processes and coordinates searches for Commission documents on FOIA requests and appeals.
8. Coordinates FOIA appeals with the Office of the General Counsel.

F. The Rulemaking and Adjudicatory Staff—

1. Develops and maintains the official adjudicatory dockets of the Commission in matters involving hearings before the Commission and the Atomic Safety and Licensing Boards.

2. Processes all issuances resulting from these hearings.
3. Issues all orders and other determinations of the Commission; serves on the parties, and other persons who have expressed an interest in matters involving hearings, orders, and other determinations of the Commission and those issued by the Atomic Safety and Licensing Boards.
4. Maintains the official Commission rulemaking dockets; receives and distributes public comments in rulemaking proceedings.
5. Maintains continuous and current information on NRC adjudicatory proceedings, rulemaking, and selected litigation in which NRC is a party or has an interest; maintains an official service list for forwarding of orders and other pertinent documentation to interested parties.
6. Receives for the Commission all requests for intervention and limited appearances, and other adjudicatory filings in regulatory proceedings.
7. Manages the Commission's Electronic Hearing Docket for adjudicatory proceedings.

G. The Plans Staff—

1. Performs studies and selected analyses and monitors development and publication of the Commission's Internal Procedures for the conduct of Commission business.
2. Develops and maintains the Office of the Secretary's Operating Plan and Internal Controls Plan.
3. Performs budget formulation, fiscal management, development of personnel authorizations, management surveys, and projects as prescribed by the Secretary; reviews and analyzes the Office of the Secretary activities.
4. Develops and maintains introductory information that is relevant to the NRC's organization, resources, and responsibilities for a new Commissioner nominee/new Commissioner.
5. Performs administrative and logistical support services for SECY organizational units.

H. The NRC Historian—

1. Develops policies and procedures for the operation of an official history program for NRC.
2. Establishes the scope, outline, emphasis, and content of the official written history of NRC.
3. Plans and supervises all phases of historical research for the NRC written history, including the collection and analysis of source material, the evaluation of

historical evidence, and the preparation of preliminary and final versions of the written history.

4. Provides historical reference service upon request to the Commission, the NRC staff, and the general public.
5. Coordinates activities with respect to the disposition of former Commissioner Papers.

VIII. REFERENCES

Code of Federal Regulations

10 CFR, "Energy."

10 CFR Part 1, "Statement of Organization and General Information."

10 CFR 1.25, "Office of the Secretary of the Commission."

10 CFR 1.51, "Description and Custody of NRC Seal."

10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders."

10 CFR 2.307, "Extension and Reduction of Time Limits; Delegated Authority to Order Use of Procedures for Access by Potential Parties to Certain Sensitive Unclassified Information."

10 CFR Part 7, "Advisory Committees."

10 CFR Part 9, "Public Records," Subpart C, "Government in the Sunshine Act Regulations."

10 CFR Part 110, "Export and Import of Nuclear Equipment and Material."

Nuclear Regulatory Commission

Internal Commission Procedures, available at <http://www.nrc.gov/about-nrc/policy-making/internal.html>.

Management Directive—

3.1, "Freedom of Information Act."

6.3, "The Rulemaking Process."

NRC Public Web site:

<http://www.nrc.gov>.

United States Code

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801 et seq.).

Reorganization Plan No. 1 of 1980 (5 U.S.C. App. 1).

Federal Advisory Committee Act, as amended (5 U.S.C. App. 2).

Freedom of Information Act, as amended (5 U.S.C. 552).

Government in the Sunshine Act, as amended (5 U.S.C. 552b).