

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

| MD 9.19 ORGANIZATION AND FUNCTIONS, OFFICE OF ENFORCEMENT | | DT-17-179 |
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| Volume 9: | Organization and Functions | |
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| Issuing Office: | Office of Enforcement | |
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| EXECUTIVE SUMMARY | | |
| Directive 9.19, "Organization and Functions, Office of Enforcement," replaces Manual Chapter 0108 as part of an ongoing effort to improve the agency's Management Directives (MD) program. MD 9.19 reflects the most current policies, standards, and procedures, including the delegation of authority to the deputy director to act for the director in his or her absence. | | |

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I. SUPERVISION

The Office of Enforcement (OE) is headed by a director who reports to the Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration, and Human Capital (DEDM).

II. FUNCTIONS

OE promotes the NRC's mission by leading in the development and oversight of policies and programs for enforcement, allegations, differing views, and external safety culture, and supporting their implementation. Specifically, OE is responsible for—

A. Program Oversight

1. Oversees the U.S. Nuclear Regulatory Commission Enforcement Program, including the Enforcement Alternative Dispute Resolution (ADR) Program.
2. Oversees the NRC Allegation, Early (Pre-Investigation) OE ADR, Differing Professional Opinion, Non-Concurrence, and External Safety Culture Programs.
3. Provides programmatic and implementation direction to regional and headquarters offices conducting, or involved in, enforcement action, allegation evaluation, NRC differing views processing (including non-concurrences), and external safety culture activities.
4. Ensures regional and headquarters offices' enforcement and allegation activities are carried out consistent with the Commission's rules, regulations and policies, and applicable laws.

B. Enforcement

1. Develops and implements policies, guidance, and programs for enforcement of NRC requirements, provides oversight and coordination, and ensures consistency and timeliness of Enforcement Program activities across the agency. Specific information regarding the Enforcement Program is described in the NRC Enforcement Policy (available at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>) and the NRC Enforcement Manual (available at <http://www.nrc.gov/about-nrc/regulatory/enforcement/guidance.html>).
2. May initiate enforcement actions; exercise enforcement discretion; conduct conferences, caucuses, panels, and meetings on enforcement matters; request information from licensees and non-licensees; issue subpoenas; and prepare and issue enforcement actions, including notices of violation, proposed civil penalties, and orders.

3. Reviews enforcement-related actions and, as appropriate, policies, guidance, instructions, rulemakings, and generic communications prepared by the NRC headquarters and regional offices.
4. Assists in inspections and investigations, as appropriate.

C. Concerns Resolution

1. Develops and manages policies and programs related to allegations. Allegation Program oversight and implementation guidance are described in Management Directive (MD) 8.8, "Management of Allegations," and the NRC Allegations Manual.
2. Develops and manages policies and programs related to the NRC differing views process. Oversight and implementation guidance for the NRC's differing views programs, which include the Non-Concurrence Process and the Differing Professional Opinion Program, are provided in MD 10.158, "The NRC Non-Concurrence Process," and MD 10.159, "The NRC Differing Professional Opinion Program."
3. Develops and manages policies and programs related to external safety culture activities. The Commission expectations related to external safety culture are found in the NRC's "Safety Culture Policy Statement" (76 FR 34773, June 14, 2011, available at <http://www.nrc.gov/about-nrc/safety-culture/sc-policy-statement.html>).
4. Develops and manages policies and programs for those portions of the Enforcement Program related to licensee employee protection (discrimination) and ADR.

III. DELEGATION OF AUTHORITY TO THE DIRECTOR

- A. The Director, OE, is authorized and directed to take any action necessary to carry out the functions assigned in this MD or other official directives or communications, subject to the limitations described herein.
- B. In performing these functions, the Director will—
 1. Manage, direct, coordinate, and approve the activities, including administrative functions, of the various organizational units in OE.
 2. Prepare, coordinate, approve, and issue the following actions to licensees, non-licensees, and vendors:
 - (a) Notices of violation pursuant to Title 10 of the *Code of Federal Regulations* (CFR) 2.201, "Notice of Violation";
 - (b) Orders pursuant to 10 CFR 2.202, "Orders" (including confirmatory and ADR orders);

- (c) Settlement and compromise pursuant to 10 CFR 2.203, "Settlement and Compromise";
 - (d) Demands for information pursuant to 10 CFR 2.204, "Demand for Information";
 - (e) Proposed civil penalties pursuant to 10 CFR 2.205, "Civil Penalties"; and
 - (f) Subpoenas pursuant to Section 161c of the Atomic Energy Act of 1954, as amended.
3. Prepare, coordinate, approve, and issue the following actions to licensees, non-licensees, and vendors with respect to performance deficiencies and alleged violations of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and Commission regulations, license conditions, and orders:
- (a) Letters,
 - (b) Notices of deviation and non-conformance,
 - (c) Minor and non-cited violations,
 - (d) Enforcement discretion,
 - (e) ADR agreements in principle, and
 - (f) In conjunction with the program office, Reactor Oversight Process (ROP), and construction ROP findings evaluated using the Significance Determination Process (SDP).
4. Implement and manage mediation and enforcement actions for the Enforcement ADR Program.
5. Implement and manage programs to ensure the enforcement and allegation programs are executed in accordance with Commission rules, regulations and policies, and applicable laws.
6. Manage major enforcement actions initiated by regions and program offices (e.g., civil penalties, orders, demands for information (DFIs), significant notices of violations), including proposals to mitigate such action, and approve or direct enforcement action to be taken by a region or headquarters office.
7. In consultation with the applicable region or program office, and, as required, with the Office of the General Counsel (OGC) and the Office of Investigations (OI), may initiate an allegations review board, and obtain information under Section 161c or 182 of the Atomic Energy Act of 1954, as amended, with respect to alleged violations of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and Commission rules, regulations, license conditions, and orders.

8. Take action necessary to comply with the decisions of an Administrative Judge, the Atomic Safety and Licensing Board Panel (ASLBP), or the Commission after a hearing pursuant to 10 CFR Part 2, "Agency Rules of Practice and Procedure."
9. Disseminate information, as appropriate, to the Commission, other NRC offices, other Government agencies, licensees, and the public.
10. Ensure that the Executive Director for Operations (EDO), the Deputy Executive Directors for Operations, headquarters office directors, and regional administrators are kept fully and currently informed about substantive matters that affect their responsibilities.
11. Subject to appropriate coordination with relevant offices, enter into, extend, modify, and terminate agreements to which OE is a signatory with Federal, State, and local agencies.
12. Coordinate, execute, and maintain interoffice agreements to ensure the appropriate resources are maintained in each applicable major program office to effectively execute the agency's Enforcement and Allegation Programs.
13. Subject to appropriate coordination with relevant offices, ensure adequate resources are available in OE to effectively execute enforcement, allegations, differing views, and external safety culture programs.
14. Lead the agency's external safety culture efforts in coordination with program offices in support of Commission direction on the Safety Culture Policy Statement, and provide outreach and education on safety culture to industry organizations, U.S. Government agencies, and the international community, as requested.
15. Perform functions as required by, and in accordance with, applicable law, statute, or regulation.
16. Prepare, manage, and approve instructions and guidance on matters within delegated authority for use by the regional and headquarters offices.
17. Recommend to the EDO, through the DEDM, proposed rules, regulations, and generic communications, and develop policy options for Commission consideration on matters within delegated authority.
18. Issue appropriate *Federal Register* notices in connection with the actions delegated in this MD.
19. Prepare and issue delegations of authority to headquarters office directors and regional administrators for the implementation and execution of the specific programs managed by OE.

C. Limitations to the authority of the director include the following:

1. The authority of the director does not apply to enforcement cases where the Director, OE; the director of a headquarters program office; or a regional administrator is in disagreement on a proposed course of action.
2. The authority of the director does not extend to cases in which the decision to take a specific action rests with an Administrative Law Judge, ASLBP, or the Commission after a hearing pursuant to 10 CFR Part 2.
3. The authority of the director to issue a subpoena requires the concurrence of OGC, and consultation with OI.
4. The director shall consult with the DEDM for cases involving novel issues or substantial legal, programmatic, or policy concerns.
5. The director shall notify or consult with the Commission in a manner consistent with the guidance of the NRC's Enforcement Policy.

IV. DELEGATION OF AUTHORITY TO THE DEPUTY DIRECTOR

The deputy director is authorized and directed to act in the stead of the director during the absence of the director.

V. REDELEGATION OF AUTHORITY BY THE DIRECTOR

- A.** The director may, except where expressly prohibited, redelegate to others authority delegated to the director, subject to the limitations stated below, and to such other stipulations as the director may deem necessary.
- B.** A redelegation must be made in writing and a copy filed with the EDO, the Secretary of the Commission, OGC, and the Office of the Chief Human Capital Officer (OCHCO).
- C.** The director must stipulate any limitations on further redelegations of the authority that the director delegates.
- D.** The director may not redelegate the authority to—
 1. Sign or issue immediately effective orders, with the exception of immediately effective confirmatory orders.
 2. Sign or issue civil penalties to individuals licensed pursuant to 10 CFR Part 55, "Operators' Licenses."
 3. Sign or issue a subpoena pursuant to Section 161c of the Atomic Energy Act of 1954, as amended.

VI. ORGANIZATIONAL STRUCTURE AND INTERNAL ASSIGNMENTS

Organization charts and functional descriptions for OE and its components are posted on the NRC internal Web site (<http://www.internal.nrc.gov/HR/organization.html>) and the NRC public Web site (<http://www.nrc.gov/about-nrc/organization/oefuncdesc.html>). Deviations from the standard organizational structure that affect positions or functions at the branch level or above must be coordinated with the appropriate regional and headquarters offices, concurred on by OCHCO, and approved by the DEDM.

VII. REFERENCES

Code of Federal Regulations

10 CFR Part 2, "Agency Rules of Practice and Procedure."

2.201, "Notice of Violation."

2.202, "Orders."

2.203, "Settlement and Compromise."

2.204, "Demand for Information."

2.205, "Civil Penalties."

10 CFR Part 55, "Operators' Licenses."

Nuclear Regulatory Commission Documents

Final Safety Culture Policy Statement (76 FR 34773, June 14, 2011):

<http://www.nrc.gov/about-nrc/safety-culture/sc-policy-statement.html>.

Memorandum to Patricia K. Holahan, Director, Office of Enforcement, from Victor McCree, Executive Director for Operations, "Delegation of Authority for Enforcement Actions," dated December 13, 2015 ([ML15211A322](#)).

NRC Management Directives—

MD 8.8, "Management of Allegations."

MD 10.158, "The NRC Non-Concurrence Process."

MD 10.159, "The NRC Differing Professional Opinion Program."

NRC Web Sites—

NRC Allegation Manual:

<http://www.internal.nrc.gov/OE/allegation-manual.html>.

NRC Enforcement Policy:

<http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

NRC Enforcement Manual:

<http://www.nrc.gov/about-nrc/regulatory/enforcement/guidance.html>.

NRC Organization Web Site:

<http://www.internal.nrc.gov/HR/organization.html>.

NRC Web Site on the Organization and Functions of the Agency:

<http://www.nrc.gov/about-nrc/organization.html>.

United States Code

Alternative Dispute Resolution Act (28 U.S.C. 44).

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

Energy Policy Act of 2005, Pub. L. 109-58.

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