

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

MD 9.26		ORGANIZATION AND FUNCTIONS, OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS		DT-21-01	
Volume 9:		Organization and Functions			
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EXECUTIVE SUMMARY					
<p>Management Directive (MD) 9.26, “Organization and Functions, Office of Nuclear Material Safety and Safeguards (NMSS),” replaces Manual Chapter and Appendix NRC-0124. MD 9.26 reflects the organizational structure, responsibilities, and authorities of the office.</p> <p>This revision eliminates MD 9.15, “Organization and Functions, Office of State and Tribal Programs (OSTP),” to reflect the incorporation of the OSTP responsibilities.</p>					

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For updates or revisions to policies contained in this MD that were issued after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

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I. SUPERVISION

The Office of Nuclear Material Safety and Safeguards (NMSS) is under the supervision of a director who reports to the Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration, and Human Capital Programs (DEDM), Office of the Executive Director for Operations (OEDO).

II. FUNCTIONS

A. Regulatory Activities

NMSS licenses and oversees the production of commercial nuclear fuel, uranium -recovery activities, decommissioning of nuclear facilities, and the safe and secure use of radioactive materials in medical, industrial, academic, and commercial applications. NMSS regulates safe storage, transportation, and disposal of high- and low-level radioactive waste and spent nuclear fuel. NMSS conducts a range of regulatory activities to protect the public health, safety, and the environment in six primary program areas—

1. Licensing,
2. Oversight,
3. Rulemaking,
4. Incident Response,
5. Domestic Material Control and Accounting (MC&A) and International Safeguards Activities, and
6. Outreach, Coordination, and Interface with Agreement States, as well as Federal agencies, States, and Tribal governments.

B. Business Lines

1. NMSS serves as the lead office for four business lines supporting the Nuclear Materials and Waste Safety Program. NMSS supports all NRC business lines in rulemaking, environmental reviews, and financial assurance reviews through its centers of expertise. NMSS supports coordination on NRC mission activities across all business lines through its leadership of the Agreement State and Tribal liaison programs.

(a) Licensing

NMSS issues licenses, license amendments, and license renewals for the use of radioactive material at fuel facilities, uranium recovery facilities, power reactors and research and test reactors undergoing decommissioning, material facilities undergoing decommissioning, sealed sources and devices (SSD), and spent fuel management facilities; approves designs for spent fuel storage and radioactive waste containers; and certifies transport packages. The licensing program includes—

- (i) Processing licensing actions, certifications, and orders for facilities and vendors under NMSS responsibility;
- (ii) Evaluating environmental, technical, and safety matters associated with licensing actions; and
- (iii) Supporting mandatory and contested hearings.

(b) Oversight

The oversight program monitors the following to ensure the compliance with and adequacy of NRC regulations and materials users licensees for manufacturing, possession, and distribution licenses:

- (i) Licensed fuel cycle facilities,
- (ii) Uranium recovery facilities,
- (iii) Power reactors and research and test reactors undergoing decommissioning,
- (iv) Materials facilities undergoing decommissioning,
- (v) Certificate of Compliance holders of spent fuel storage and transportation packages, and
- (vi) Independent spent fuel storage installations.

2. Oversight activities include—

- (a) Overseeing the process for licensees, certificate holders, and facilities subject to orders under NMSS responsibility.
- (b) Managing the oversight program under NMSS responsibility.
- (c) Establishing the decommissioning financial assurance instrument security program and jointly administering the program with the Office of Nuclear Reactor Regulation (NRR) and the regional administrators.
- (d) Interfacing with the regional offices on topics such as—
 - (i) Technical support for implementing the oversight program,
 - (ii) Revisions and development to oversight program documents and policies, and
 - (iii) Potential generic technical issues related to the oversight program.
- (e) Issuing immediately effective orders to respond to imminent security threats for reactor licensees and material licensees. This authority may not be re-delegated.
- (f) Conducting inspections of transportation packages and spent fuel storage system vendors to assess compliance with regulations and the license or certificate.
- (g) Improving NMSS programs by using insight gained through the oversight program to verify or refine their effectiveness.

C. Rulemaking

NMSS plays a pivotal role in agency rulemaking through centralized rulemaking support.

- 1. Leading, managing, and facilitating rulemaking activities for—
 - (a) New, advanced, and operating power reactors, and for non-power utilization facilities;
 - (b) Nuclear materials, including production of nuclear fuel used in commercial nuclear reactors, low-level waste, uranium recovery, and storage, transportation, and disposal of high-level radioactive waste and spent nuclear fuel; and
 - (c) The transportation of radioactive materials regulated under the Atomic Energy Act of 1954, as amended.
- 2. Identifying regulatory policy issues for the Commission.

3. Leading agencywide activities to coordinate and prioritize rulemaking activities and address rulemaking issues, including—
 - (a) Developing deterministic and risk-informed regulations that enhance regulatory effectiveness and efficiency;
 - (b) Developing, recommending, and administering policies and procedures for review and publication of all NRC regulations;
 - (c) Developing and recommending cost-benefit guidance used by the NRC;
 - (d) Developing, recommending, and administering agencywide policies, procedures, and program management for the NRC's rulemaking and petition for rulemaking activities;
 - (e) Managing the intake and resolution process for rulemaking petitions submitted under 10 CFR 2.802 that are related to reactor, materials, and waste issues;
 - (f) Providing rulemaking support for rules of agency practice and procedure; and
 - (g) Managing the agency's professional qualification programs for rulemaking.
4. Leading agencywide training on rulemaking processes.

D. Incident Response

1. NMSS supports the Office of Nuclear Security and Incident Response (NSIR) and the regions on matters associated with significant performance issues and events at facilities and materials licensees under NMSS responsibility that could adversely affect the public health, safety, and the environment. NMSS also supports the Abnormal Occurrences process, contingency planning and emergency response activities, and the NRC headquarters emergency response plan.
2. NMSS supplies administrative, project management, and technical personnel to the agency's incident response teams. The support personnel are qualified in the areas of operational safety, design and licensing bases, and protective measures.

E. Domestic Material Control and Accounting (MC&A) and International Safeguards Activities

NMSS leads the Material Control and Accounting (MC&A) and international safeguards implementation activities for the NRC. Specific activities include—

1. Developing and implementing the regulatory framework for MC&A and conducting technical reviews of MC&A programs at fuel cycle facilities, reactors, and other NRC licensees authorized to possess special nuclear material.

2. Implementing international safeguards treaties and agreements at NRC-licensed facilities to fulfill the U.S. obligations under agreements with the International Atomic Energy Agency (IAEA) detailed in 10 CFR Part 75, "Safeguards on Nuclear Material—Implementation of Safeguards Agreements between the United States and the International Atomic Energy Agency."
3. Supporting the Department of Energy on 10 CFR Part 810, "Assistance to Foreign Atomic Energy Activities," and on the review of the import and export of nuclear technology.
4. Providing technical support to the Office of International Programs (OIP) on licensing the export and import of nuclear material and equipment, retransfer requests, nuclear cooperation agreements, and other international safeguards arrangements.
5. Overseeing and managing the Nuclear Materials Management and Safeguards System (NMMSS), the centralized U.S. Government database used to track and account for source and special nuclear material, to ensure that it has not been lost, stolen, or diverted to unauthorized users.

F. Outreach, Coordination, and Interface with Agreement States, Federal and State Governments, and Federally Recognized Tribes

To ensure effective outreach, coordination, and interface, NMSS—

1. Establishes and maintains effective communications between the NRC and States, local governments, other Federal agencies, and Federally Recognized Tribes.
2. Coordinates with the Agreement States to plan and provide for compatibility in regulatory approaches, including addressing safety and security interface issues between the NRC and the Agreement States.
3. Provides guidance to States intending to become Agreement States and reviews new applications for Section 274b Agreements in coordination with other NRC offices and the regions.
4. Reviews Agreement State programs for continued adequacy to protect public health and safety and evaluates compatibility with the NRC's regulatory program through the Integrated Materials Performance Evaluation Program (IMPEP).
5. Coordinates with the governor-appointed State Liaison Offices in all states on materials, waste, and security program issues.
6. Manages the NRC's Federal, State, and Tribal Liaison Program, and serves as primary contact for policy matters between the NRC and State Governments, Federal agencies, and Native American Tribal governments.

7. Plans and coordinates all Advisory Committee on Medical Uses of Isotopes (ACMUI) activities.

G. Business Line Lead

1. NMSS is the lead office for the following business lines for budgeting, reporting, and communications for matters regarding the business lines:
 - (a) Decommissioning and Low-Level Waste,
 - (b) Fuel Facilities,
 - (c) Nuclear Materials Users, and
 - (d) Spent Fuel Storage and Transportation.
2. The responsibilities of the business line leads and the partner offices are described in the [Memoranda of Understanding](#) located on the Office of the Chief Financial Officer (OCFO) Enterprise Risk Management and Internal Control [SharePoint site](#).

III. DELEGATIONS OF AUTHORITY

A. Director, Office of Nuclear Material Safety and Safeguards (NMSS)

The Director, NMSS, is authorized and directed to act to—

1. Take the action(s) necessary to carry out the functions described in this MD or other official directives or communications, subject to the limitations prescribed therein.
 - (a) Memorandum to Those on the Attached List from R. W. Borchardt, Executive Director for Operations, “Delegation of Authority to Issue Orders in Response to Imminent Security Threats,” November 20, 2009 ([ML092670411](#)).
 - (b) Memorandum to John W. Lubinski, Office of Nuclear Material Safety and Safeguards, from George A. Wilson, Acting Director, Office of Enforcement, “Delegation of Authority for Certain Enforcement Actions to the Director, Office of Nuclear Material Safety and Safeguards,” April 26, 2019 ([ML19079A188](#)).
2. As described in MD 5.1, plan and direct the NRC’s program of cooperation and liaison with States, federally recognized Indian Tribes, and Federal agencies (Memorandum to Marc L. Dapas, Director, Office of Nuclear Material Safety and Safeguards, from Victor M. McCree, Executive Director for Operations, “Delegation of Authority to Direct the U.S. Nuclear Regulatory Commission’s Liaison Program with States, Tribes, Local governments, and Other Federal Agencies and to Conduct Intergovernmental Consultation and Coordination,” May 31, 2017 ([ML15321A170](#))).

3. Issue, renew, and amend licenses consistent with applicable law except where the adjudicatory decision rests with an Atomic Safety and Licensing Board or the Commission per 10 CFR Part 2, "Agency Rules of Practice and Procedure."
4. Issue, renew, and amend domestic licenses for special nuclear material in accordance with 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material."
5. Issue, renew, and amend certificates of compliance for transportation of special nuclear material in accordance with 10 CFR Part 71, "Packaging and Transportation of Radioactive Material."
6. Issue, renew, and amend domestic licenses and certificates of compliance for storage for special nuclear material in accordance with 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste."
7. Issue, renew, and amend domestic licenses for source material in accordance with 10 CFR Part 40, "Domestic Licensing of Source Material."
8. Issue, renew, and amend licenses to ensure decommissioning in an efficient, cost-effective manner consistent with protection of the public health and safety and the environment.
9. Consistent with NRC regulations, grant exemptions from NRC regulations or impose conditions on the following:
 - (a) Licensees of production facilities;
 - (b) Licensees of power reactors with approved decommissioning plans and possession only licenses;
 - (c) Licensees of source, byproduct, and special nuclear material;
 - (d) Certificates for gaseous diffusion plants;
 - (e) Licensees with possession only license;
 - (f) Certificates of compliance for storage and transportation of radioactive material.
10. Take actions to ensure technical adequacy and program consistency nationwide in the conduct of regulatory activities under NMSS responsibility.
11. Issue, in accordance with 10 CFR Part 2, notices of the denial or the proposed denial of applications for source, byproduct, and special nuclear material licenses.
12. Take necessary or appropriate action in accordance with decisions of an Atomic Safety and Licensing Board or the Commission per 10 CFR Part 2.

13. Prescribe license conditions and recommend rules and regulations for safety, material control and accounting, and physical security within NMSS areas of responsibility.
14. Take necessary or appropriate action to fulfill the U.S. obligations under agreements with IAEA in accordance with 10 CFR Part 75.
15. Request interagency support on special safety and safeguards matters.
16. Take such actions as may be required to carry out the functions assigned in Sections 2.202, 2.204, and 2.206 of 10 CFR Part 2.
17. Take such actions as may be required to carry out the functions assigned in 10 CFR § 1.42, including any orders, other than actions related to any alleged violation of the Atomic Energy Act of 1954, as amended.
18. Issue subpoenas under Section 161c of the Atomic Energy Act of 1954, as amended, where necessary or appropriate for the conduct of inspections or investigations into matters within the areas of responsibility of NMSS, after first receiving concurrence from the Office of the General Counsel (OGC) and consulting with the Office of Investigations (OI).
19. Issue orders, notices, or letters to licensees, consistent with the areas of responsibility of NMSS, with respect to activities that may affect or have the potential for affecting safety and safeguards of operations, and for compliance with Commission regulations, orders, or licenses, and provide policy and procedures to regional offices concerning these matters.
20. Consistent with NRC regulations, evaluate licensee fitness-for-duty programs that are under NMSS areas of responsibility.
21. Communicate directly with State and local jurisdictions in matters dealing with response support for safety and safeguards contingencies and in matters dealing with transportation of radioactive materials.
22. In accordance with Section 204 of the Energy Reorganization Act of 1974, as amended, monitor, test, and recommend upgrading of internal accounting systems for nuclear materials licensed under the Atomic Energy Act of 1954, as amended.
23. Communicate directly with Governors and legislators of all affected States and affected Federally recognized Tribes in matters dealing with their participation in the characterization and licensing of low-level waste disposal sites, in accordance with 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste."

24. Develop, in consultation and coordination with other pertinent agencies, safeguards contingency plans, and interagency agreements for dealing with threats, thefts, and sabotage relating to special nuclear material and nuclear facilities licensed under the Atomic Energy Act of 1954, as amended.
25. Formulate recommendations for NRC policy on groundwater protection activities and articulate the agency position to other Government organizations.
26. Issue appropriate Federal Register Notices in connection with the actions described in this MD including notices that offer an opportunity to request a public hearing in connection with an action or proposed action.
27. Enter into, extend, modify, and terminate orders and agreements with other agencies, as appropriate, and settle terminations in accordance with delegation of contractual authority from the EDO.
28. Evaluate, as requested, the nuclear safety aspects of the design of Department of Transportation and Department of Defense (DOD) transportation packages.

B. Delegation of Authority to the Deputy Director, NMSS

The Deputy Director is authorized to act on behalf of the Director, except where expressly prohibited.

C. Delegation of Authority to the Director, Division of Rulemaking, Environmental, and Financial Support (REFS), NMSS

Rulemaking-related delegations to the Director, NMSS, REFS, are listed in MD 6.3, "The Rulemaking Process," and the Memorandum to Patricia K. Holahan, Director, Division of Rulemaking, Office of Nuclear Material Safety and Safeguards, from Marc L. Dapas, Director for Operations, Office of Nuclear Material Safety and Safeguards, "Delegation of Authority for the Petition for Rulemaking Program," August 22, 2018 ([ML18199A263](#)).

IV. REDELEGATION OF AUTHORITY BY THE DIRECTOR

- A. The Director, NMSS, may, except where expressly prohibited, redelegate to others the authority delegated to the director described in this or other official directives or communications as the Director deems necessary.
- B. A re-delegation must be made in writing and a copy filed with the Office of the Executive Director for Operations (OEDO), the Secretary of the Commission (SECY), OGC, and the Office of the Chief Human Capital Officer (OCHCO). Each redelegation will be retained as an official record in the Agencywide Documents Access and Management System (ADAMS).

- C. The Director, NMSS, must stipulate in each delegation of authority any limitations on further redelegation.

V. ORGANIZATIONAL STRUCTURE AND INTERNAL ASSIGNMENTS

Organization charts and functional descriptions for NMSS and its components are posted on the NMSS SharePoint site (<https://usnrc.sharepoint.com/sites/nmss-hub>) and the NRC public Web site (<https://www.nrc.gov/about-nrc/organization/nmssfuncdesc.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.

VI. REFERENCES

Code of Federal Regulations

- 10 CFR Part 1, "Statement of Organization and General Information."
- 10 CFR Part 2, "Agency Rules of Practice and Procedure."
- 10 CFR Part 40, "Domestic Licensing of Source Material."
- 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste."
- 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material."
- 10 CFR Part 71, "Packaging and Transportation of Radioactive Material."
- 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste."
- 10 CFR Part 75, "Safeguards on Nuclear Material—Implementation of Safeguards Agreements between the United States and the International Atomic Energy Agency."
- 10 CFR Part 810, "Assistance to Foreign Atomic Energy Activities."

Federal Register Notice

Organizational Changes and Conforming Amendments (79 FR 75735),
December 19, 2014, at <https://www.gpo.gov/fdsys/pkg/FR-2014-12-19/pdf/2014-29664.pdf>.

Miscellaneous Corrections (83 FR 30285), June 28, 2018, at
<https://www.govinfo.gov/content/pkg/FR-2018-06-28/pdf/2018-13877.pdf>.

Nuclear Regulatory Commission Documents

Creation of the Environmental Review Center of Expertise, September 19, 2019
([ML19200A011](#)).

Creation of the Financial Assurance Center of Expertise, September 13, 2019
([ML19213A301](#)).

Creation of the Rulemaking Center of Expertise, March 30, 2017 ([ML17040A503](#)).

Delegations of Authority

Memorandum to Those on the Attached List from R. W. Borchardt, Executive Director for Operations, "Delegation of Authority to Issue Orders in Response to Imminent Security Threats," November 20, 2009 ([ML092670411](#)).

Memorandum to Catherine Haney, Director, Office of Nuclear Material Safety and Safeguards, from Mark A. Satorius, Executive Director for Operations, "Delegation of Authority to the Director of the Office of Nuclear Material Safety and Safeguards," September 24, 2014 ([ML14261A010](#)).

Memorandum to John W. Lubinski, Director, Office of Nuclear Material Safety and Safeguards, from George A. Wilson, Acting Director, Office of Enforcement, "Delegation of Authority for Certain Enforcement Actions to the Office of Nuclear Material Safety and Safeguards," April 26, 2019 ([ML19079A188](#)).

Memorandum to Marc L. Dapas, Director, Office of Nuclear Material Safety and Safeguards, from Victor M. McCree, Executive Director for Operations, "Delegation of Authority to Direct the U.S. Nuclear Regulatory Commission's Liaison Program with States, Tribes, Local Governments, and Other Federal Agencies and to Conduct Intergovernmental Consultation and Coordination," May 31, 2017 ([ML15321A170](#)).

Memorandum to Marc L. Dapas, Director, Office of Nuclear Material Safety and Safeguards, from Patricia K. Holahan, Acting Director, Office of Enforcement, "Delegation of Authority for the Petition for Rulemaking Program," August 27, 2018 ([ML18199A263](#)).

Management Directives (MDs)

MD 5.1, "Consultation and Coordination with Governments and Indian Tribes."

MD 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)."

MD 5.7, "Technical Assistance to Agreement States."

MD 5.8, "Proposed Section 274b Agreements with States."

MD 5.9, "Adequacy and Compatibility of Program Elements for Agreement State Programs."

MD 6.3, "The Rulemaking Process."

MD 8.12 "Decommissioning Financial Assurance Instrument Security Program."

NMSS Policy and Procedure 1-01, "NMSS Delegation of Authority," available at the NMSS Administrative Policy and Procedures [SharePoint site](#).

NRC Organization Charts and Functional Descriptions Web Site,
<https://drupal.nrc.gov/nmss>.

NRC Public Web Site on Organization of the Agency,
<https://www.nrc.gov/about-nrc/organization/nmssfuncdesc.html>.

NRC Tribal Policy Statement ([ML16334A483](#)).

SECY-15-0143, "Project Aim and Centers of Expertise," dated February 22, 2016 ([ML16053A500](#)).

NRC Enforcement Policy ([ML19352E921](#)).

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.).

Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPA) (42 U.S.C. 2021b et seq.).

National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.).

Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 et seq.).

Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA) (Public Law 108-375).

Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) (42 U.S.C. 7901-7942).

West Valley Demonstration Project Act (WVDPA) (Public Law 96-368).