

U.S. NUCLEAR REGULATORY COMMISSION

DIRECTIVE TRANSMITTAL

TN: DT-91-28

To: Branch Chiefs and Above

Subject: Transmittal of Directive 9.17, Office of the Executive Director for Operations

Purpose: Directive and Handbook 9.17 replace Manual Chapter and Appendix 0103 and have been revised to reflect the Chief Financial Officers Act of 1990 and the OMB-approved Organization and Functions of the Chief Financial Officer of the U.S. Nuclear Regulatory Commission dated April 12, 1991. Congress passed the Chief Financial Officers (CFOs) Act to bring more effective general and financial management practices to the Federal Government. Among other requirements, the Act requires that all cabinet departments and nine specified agencies, including the NRC, have CFOs who report directly to the head of the agency. The CFO oversees all accounting, budgeting, and other financial management activities of the agency. Specifically, Management Directive 9.17 designates the Executive Director for Operations as the CFO of the agency.

Office of Origin: Office of the Executive Director for Operations

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Volume: 9 NRC Organization and Functions

Directive: 9.17 Organization and Functions, Office of the Executive Director for Operations

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Organization and Functions Office of the Executive Director for Operations

Directive

(Formerly
MC 0103)

9.17

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U. S. Nuclear Regulatory Commission

Volume: 9 NRC Organization and Functions

OEDO

Office of the Executive Director for Operations Directive 9.17

Organization and Functions

Supervision (9.17-01)

Under the supervision of the Executive Director for Operations (EDO) who reports for all matters to the Chairman and is subject to the supervision and direction of the Chairman as provided in Reorganization Plan No. 1 of 1980. The EDO is governed by the general policies of the Commission and by the regulatory decisions, findings, and determinations that the Commission makes as authorized by law. The EDO, through the Chairman, shall ensure that the Commission is fully and currently informed about matters within its functions.

Functions (9.17-02)

The EDO, subject to other provisions of this directive, is specifically responsible for —

- Supervising, directing, coordinating, and approving the activities of the offices reporting to the EDO and Deputy Executive Directors. (021)

Functions

(9.17-02) (continued)

- Distribution of business among the offices that report to the Office of the EDO. (022)
- Performing the functions of the agency Chief Financial Officer (CFO) as specified in 31 U.S.C. 902(a) and in the OMB-approved Organization and Functions of the Chief Financial Officer of the U.S. Nuclear Regulatory Commission dated April 12, 1991. (023)
- Administrative functions of the Commission, that include resolving Equal Employment Opportunity and grievance matters and providing support services. (024)
- Preparation for Commission consideration of— (025)
 - The budget estimate for the Commission. (a)
 - The proposed distribution of appropriated funds according to major programs and purposes. (b)
 - Proposals for reorganization of the major offices that report to the Office of the EDO. (c)
- Consulting with the Chairman before the Chairman's initiation of the appointments of the Directors of Nuclear Reactor Regulation (NRR), Nuclear Material Safety and Safeguards (NMSS), and Nuclear Regulatory Research (RES), and the Deputy CFO and Controller (DCFO/C). (026)
- Appointing and removing, after consultation with the Chairman and without any further action by the Commission, all Directors of the offices reporting to the EDO and Deputy Executive Directors except the Directors of NRR, NMSS, and RES, and the Deputy CFO and Controller (DCFO/C). (027)

Functions

(9.17-02) (continued)

- Developing and approving delegations of authority for offices reporting to the EDO and Deputy Executive Directors. (028)
- Responding to the requests of members of the Commission for access to information. (029)
- Ensuring that the Commission, through the Chairman, is fully and currently informed about matters within its functions. (0210)
- Performing any other matter or function explicitly assigned by the Commission or the Chairman. Any matter or function not explicitly assigned to the EDO is reserved to the Chairman unless otherwise delegated to the Commission by Reorganization Plan No. 1 of 1980. (0211)
- Executing contracts, agreements, or interagency actions subject to the limitations in paragraph 032 of this directive. (0212)
- Developing and promulgating rules, as defined in subparagraph 4 of Section 551 of the Administrative Procedure Act (5 U.S.C. 551.(4)), subject to the limitations in paragraphs 038, 039, and 0310 of this directive. The EDO shall notify the Commission before submitting a final rule to the *Federal Register*. (0213)
- Issuing subpoenas under Section 161c of the Atomic Energy Act of 1954, as amended, where necessary or appropriate for the conduct of inspections or investigations. (0214)
- Exercising the Commission's authority to take enforcement or other action under 10 CFR Part 2, Subpart B. (0215)

Functions

(9.17-02) (continued)

- Determining that all declassification criteria are met for all Licensed Fuel Facility Status Reports for Inventory Difference Data (NUREG-0430) and issuing these reports after Commission approval by a Commission negative consent paper. (0216)

Delegation of Authority to the Executive Director for Operations

(9.17-03)

The EDO is the chief operating and administrative officer of the Commission and the Chief Financial Officer. Except as otherwise provided by law, regulation, Commission action, or action by the Chairman, the EDO reports to and is supervised by the Chairman as provided in Directive 9.17-01. The EDO is authorized and directed to discharge all regulatory (including but not limited to licensing and enforcement), financial management, and administrative functions of the NRC and to act as necessary to carry out the functions and execute the authorities assigned by this directive, directives of offices reporting to the EDO and the Deputy Executive Directors, the OMB-approved Organization and Functions of the Chief Financial Officer of the U.S. Nuclear Regulatory Commission dated April 12, 1991, or other official directives or communications.

In connection with duties as the agency CFO, the EDO is specifically authorized to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that are the property of the agency or that are available to the agency, and that relate to programs and operations with respect to which the CFO has responsibilities (except for Inspector General material not otherwise accessible under applicable laws) (reference 31 U.S.C. 902(b)). Further, the EDO is specifically authorized to review all major legislative and other programmatic

Delegation of Authority to the
Executive Director for Operations
(9.17-03) (continued)

proposals (including those from offices which report directly to the Chairman or the Commission) in order to provide advice to the Chairman and the Commission on Federal cost and benefit estimates.

Limitations placed on the authority of the EDO require that the EDO (see Handbook 9.17, Part II for further limitations)—

- Present all significant questions of policy to the Commission for resolution, and with respect to these questions, present all major views of the affected offices to the Commission. (031)
- Submit to the Chairman or Commission, as appropriate, for approval contracts, agreements, or interagency actions required by law, including authorization statutes, or regulation to be approved by the Chairman or Commission. The EDO shall provide to the Chairman a five-day notice of cancellations by the EDO of contracts previously approved by the Chairman. The EDO shall submit to the Chairman, for approval, all contracts for \$3,000,000 or more, or with an estimated cost of \$750,000 or more involving a topic on the Commission's priority list or not covered by the Five-Year Plan. (032)
- Shall not delegate those non-delegable functions described in Section 161n of the Atomic Energy Act of 1954, as amended (NRC Handbook 9.17, Part II). (033)
- Limit approval of employment of an individual by the NRC before completion of the security investigation and reports required by Section 145b of the Atomic Energy Act of 1954, as amended, to situations in which an individual will be precluded from access to Restricted Data or National Security Information through administrative procedures, and that the EDO approve this employment only upon receipt of an

Delegation of Authority to the
Executive Director for Operations
(9.17-03) (continued)

affirmative recommendation from the Director, Division of Security, and a clear showing of need by the requesting organization. This authority may not be redelegated. (034)

- Shall submit to the Commission, through the Chairman, any information transmitted to the NRC by the Special Counsel pursuant to 5 U.S.C. 1213(c)(l), 1213(g)(l), 1213(g)(2), or 1214(d) and 1214(e) (relating to certain disclosures of information to the Special Counsel regarding an agency's operations or alleged violation of certain laws by agency officials). The EDO shall also submit any report, communication, or certification required of the head of the agency pursuant to 5 U.S.C. 1213(c)(l)(B), 1213(g)(l), 1213(g)(2), or 1214(e) to the Commission, through the Chairman, for review and signature of the Chairman. (035)
- Shall submit to the Commission for approval any export license application involving activities specified in 10 CFR 110.40(b) as well as similar activities in the following export-related areas that are not subject to NRC licensing, but on which the Nuclear Non-Proliferation Act (NNPA) requires NRC consultation—(036)
 - Subsequent arrangements under Section 131 of the Atomic Energy Act of 1954, as amended (the AEA); (a)
 - Activities covered by Section 57b of the AEA; (b)
 - Exports licensed by the Department of Commerce and subject to the provisions of Section 309(c) of the NNPA; (c)
 - Agreements for Cooperation under Section 123 of the AEA; (d) and

Delegation of Authority to the
Executive Director for Operations
(9.17-03) (continued)

- Government-to-Government transfers subject to Section 54d and 64 of the AEA. (e)
- Shall submit to the Chairman for signature correspondence to State and Federal officials that involves major new policy questions and all correspondence to the President and Chairpersons of the Oversight Committees and shall submit to the Commission for consideration correspondence that involves significant matters of policy. (037)
- Shall subject all rulemaking to general policy guidance from the Commission. (038)
- In addition to these limitations, the EDO's delegated authority under paragraph 0213 of this directive does not extend to the promulgation of proposed or final rules that involve significant questions of policy. (039)
- The EDO's delegated authority, under paragraph 0213 of this directive, to develop and promulgate rules applies to 10 CFR Parts 7, 8, and 9 Subpart C, only if the proposed or final rules or amendments to these parts do not raise policy issues or are corrective in nature. Before promulgating a proposed or final rule modifying Part 2, the EDO shall obtain the concurrence of the Office of the General Counsel, the Office of Commission Appellate Adjudication, and the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel. If any office fails to concur, the proposed action is to be referred to the Commission. (0310)

Redelegation of Authority by the
Executive Director for Operations
(9.17-04)

- The function delegated to the EDO under paragraph 0214 of this directive may be redelegated only to the Deputy Executive Directors, the Directors of the Offices of NRR, NMSS, and Investigations, and to the Regional Administrators. The issuance of any subpoena will require the concurrence of the Office of the General Counsel and consultation with the Office of Investigations. (041)
- The functions delegated to the EDO under paragraph 023 of this directive may be redelegated only to the Deputy Chief Financial Officer and Controller (DCFO/C) subject to the direction and supervision of the EDO, except that the function to make recommendations to the head of the agency regarding the selection of the DCFO/C cannot be redelegated. (042)
- The EDO may, except where expressly prohibited, redelegate in writing to others authority delegated by this or other official directives or communications, subject to the limitations stated below and to any other stipulations the EDO may deem necessary.

The EDO shall send a memorandum specifying the redelegation to the Secretary of the Commission, with a copy to the General Counsel, the Director, Office of Personnel, and the Director, Office of Administration. Any redelegation is to be reflected in the NRC Management Directives System. (043)

- The EDO shall stipulate any limitations on further redelegation of authority that the EDO redelegates. (044)
- The EDO shall maintain a file of all redelegations. (045)

Delegation of Authority to the Deputy
Executive Director for Nuclear Reactor
Regulation, Regional Operations,
and Research
(9.17-05)

The Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations, and Research (DEDR) is authorized to—

- Assist and act for the EDO in executing the EDO's responsibility for nuclear reactor regulation, research, and regional operations, except nuclear material safety and safeguards activities. (051)
- Approve or issue all escalated enforcement actions for matters pursuant to Parts 50 and 55 licensees, including orders and civil penalties pursuant to 10 CFR Part 2, Subpart B. (052)
- Carry out day-to-day supervision, guidance, direction, and coordination of the Directors of the Offices of NRR, RES, and the Regional Administrators. (053)
- Take action as necessary to carry out the functions assigned by this or other official directives or communications of authority. (054)
- Perform any other functions assigned by the EDO. (055)
- Act, when delegated, in the stead of the EDO or Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support (DEDS) during the EDO's or DEDS' absence and take action as necessary to perform the EDO's or DEDS' duties. (056)

Delegation of Authority to the Deputy
Executive Director for Nuclear Materials
Safety, Safeguards, and Operations Support
(9.17-06)

The Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support (DEDS) is authorized to—

- Assist and act for the EDO in executing the EDO's responsibility for nuclear material safety and safeguards programs, including the portion of regional operations dealing with NMSS issues, oversight of enforcement and investigation functions, headquarters consolidation, centralized administrative support services, and centralized information resources management support services. (061)
- Approve or issue all escalated enforcement actions except for matters pursuant to Parts 50 and 55 licensees, including orders and civil penalties pursuant to 10 CFR Part 2, Subpart B. (062)
- Make final determinations on appeals from initial Freedom of Information Act decisions of the Director, Division of Freedom of Information and Publications Services, Office of Administration, and by Office Directors reporting to the EDO or a Deputy Executive Director. (063)
- Carry out day-to-day supervision, guidance, direction, and coordination of the Directors of the Offices of NMSS, Enforcement, Investigations, Consolidation, Administration, and Information Resources Management. (064)
- Take action as may be necessary to carry out the functions assigned by this or other official directives or communications of authority. (065)

Delegation of Authority to the Deputy
Executive Director for Nuclear Materials
Safety, Safeguards, and Operations Support
(9.17-06) (continued)

- Perform any other functions assigned by the EDO. (066)
- Act, when delegated, in the stead of the EDO or DEDR during the EDO's or DEDR's absence and take action as necessary to perform the EDO's or DEDR's duties. (067)

Delegation of Authority to the
Deputy Chief Financial Officer
and Controller
(9.17-07)

The Deputy Chief Financial Officer and Controller (DCFO/C) is authorized and directed to carry out the functions delegated to the DCFO/C by Section 9.20-03 of Management Directive 9.20.

Organizational Structure and
Internal Assignments
(9.17-08)

The Office of the Executive Director for Operations (EDO) includes the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations, and Research (DEDR), the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support (DEDS), and the Assistant for Operations. An organization chart showing the internal organization of the Office is shown as Handbook 9.17, Part I. NRC Handbook 9.17, Part II, contains further limitations on delegations of authority to the Executive Director for Operations.

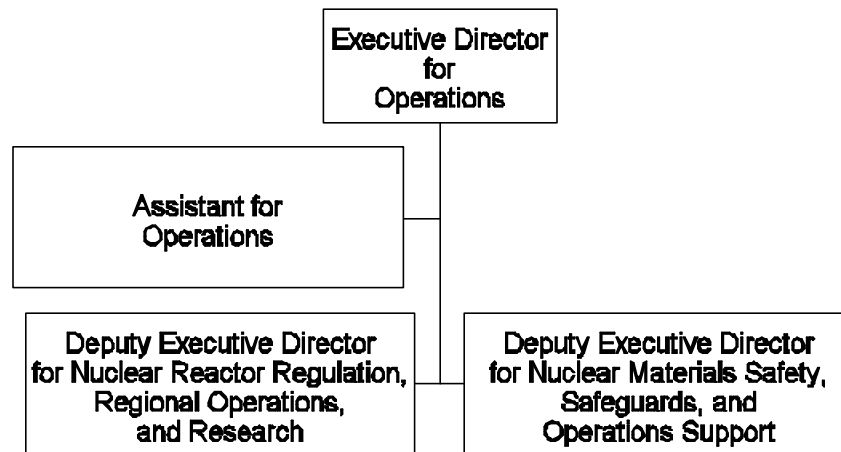
Organization and Functions Office of the Executive Director for Operations

Handbook

(Formerly
Appendix 0103)

9.17

Part I Organization Chart



Part II

Further Limitations on Delegations of Authority

Section 161n of the Atomic Energy Act of 1954, 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. In each case, the Commission must take the action. This authority cannot be delegated to any officer below the Commission level unless otherwise indicated. These sections are described as follows:

Section 51

The act defines "special nuclear material." However, Section 51 authorizes the Commission to determine that material not included in that definition is to be considered special nuclear material as well. To define any other material as "special nuclear material," the Commission must make certain determinations to which the President must expressly assent in writing.

Section 57b

Section 57b authorizes (1) the production of special nuclear material outside the United States when approved by the Commission and (2) with the approval of the Commission, the distribution and the licensing of special nuclear material outside of the United States.

Section 61

This section is comparable to Section 51, but deals with "source material" rather than "special nuclear material."

Section 108

Section 108 authorizes the Commission to (1) suspend a license and/or (2) recapture special nuclear materials and/or (3) enter and operate or order the operation of a licensed facility when the Congress declares that a state of war or a national emergency exists. In the exercise of any of these authorities, certain findings concerning the common defense and security must be made.

Section 123

Section 123, as substantially modified by Public Law 95-242, prohibits entering into cooperation with other nations without certain authorizing actions taken by the Commission, the Congress, and the President.

Section 145b

Section 145b deals with security matters and establishes restrictions on (1) employment of personnel by the Commission and (2) granting that personnel access to Restricted Data without having performed certain investigations relating to their character, associations, and loyalty. In the case of employing personnel, certain prerequisite determinations are required of the Commission. Authority to render these determinations may be delegated to an officer below the Commission level. In the case of granting employees access to Restricted Data without the necessary investigations, the required determination (i.e., that this action will not endanger the common defense and security) must not be delegated to an officer below the Commission level.

Section 145f

This section provides that the Commission will certify positions in the Commission that are of a high degree of importance or sensitivity, thereby requiring an FBI investigation of persons to fill those positions.

Section 161a

This section authorizes the Commission to establish advisory boards.