

U.S. NUCLEAR REGULATORY COMMISSION

DIRECTIVE TRANSMITTAL

TN: DT-95-23

To: NRC Management Directive System Custodians

Subject: Transmittal of Management Directive 3.9, "NRC Staff and Contractor Speeches, Papers, and Journal Articles on Regulatory and Technical Subjects"

Purpose: Directive and Handbook 3.9 consolidate and replace Manual Chapters and Appendices 3205 and 3206 and were revised to provide policy and procedures concerning NRC staff speeches or papers that staff will present to international groups or while on foreign travel and guidance to staff regarding transmission of these speeches or papers to the Commission (Section 031(e) and (f), 035(e); Part I, Section A(3), and Section B(g)) and to provide guidance on ethics about attendance at conferences and on compliance with standards of conduct regulations (Section 031(g)). It also revises and clearly delineates the responsibilities of the project manager for contractor speeches, papers, and journal articles that result from the scope of the contract. More emphasis is placed on specifying in the statement of work whether reporting by means of papers and journal articles will be authorized and on the project manager's role in authorizing for public release the contractor speeches, papers, and journal articles (Part II of the Handbook, Section A, (1) through (10)).

Office and Division of Origin: Office of Administration
Division of Freedom of Information and Publications Services

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Volume: 3 Information Management

Part: 1 Publications, Mail, and Information Disclosure

Directive: 3.9 "NRC Staff and Contractor Speeches, Papers, and Journal Articles on Regulatory and Technical Subjects"

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OFFICE OF ADMINISTRATION

NRC Staff and Contractor Speeches, Papers, and Journal Articles on Regulatory and Technical Subjects

Directive

*(Formerly
MC 3205 and
MC 3206)*

3.9

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U. S. Nuclear Regulatory Commission

Volume: 3 .. Information Management

Part: 1 Publications, Mail, and Information
Disclosure

ADM

NRC Staff and Contractor Speeches, Papers, and Journal Articles on Regulatory and Technical Subjects

Directive 3.9

Policy (3.9-01)

It is the policy of the U.S. Nuclear Regulatory Commission that all NRC staff and contractor speeches, papers, and journal articles on regulatory and technical subjects produced for official purposes will be disseminated at both NRC-sponsored and non-NRC-sponsored conferences, symposiums, and meetings or submitted to professional journals or organizations so as to provide the free interchange of ideas and criticism, which is essential to scientific and industrial progress, to public understanding, and to enlarge the fund of technical information. The agency shall authorize the payment of page charges for publication of summaries or abstracts of speeches in transactions or proceedings, or for publication of complete papers in journals or proceedings, as appropriate, to accommodate the public dissemination of scientific and regulatory information.

Objectives (3.9-02)

- To encourage the presentation of information on NRC regulatory policy, on NRC technical programs, and on NRC-sponsored research and technical programs in speeches and papers at meetings of professional societies and by publication of articles in professional journals. (021)
- To provide uniform procedures for review and approval of speeches, papers, and journal articles prepared by NRC staff and contractors. (022)
- To establish recordkeeping and disclosure requirements and responsibilities for public availability. (023)

Objectives

(3.9-02) (continued)

- To provide procedures for approval and payment of page charges. (024)
- To ensure that national security, patent rights, and commercial proprietary rights are not compromised and that nonpublic NRC information is not released without prior authorization by presentation or publication of papers and journal articles. (025)
- To provide for coordination of press or other media releases. (026)

Organizational Responsibilities and Delegations of Authority

(3.9-03)

Executive Director for Operations (EDO) (031)

- Approves all speeches, papers, and journal articles of office directors and regional administrators. (a)
- Advises office directors and regional administrators with respect to speeches, papers, and journal articles on new or unresolved policy issues that do not represent an agreed-upon staff position and, if appropriate, transmits speeches, papers, and journal articles for the review and recommendation of the Commission through the Office of the Secretary of the Commission (SECY). These reviews must be completed within 15 days, and in no case more than 30 days, after the request for consideration by the office director. (b)
- Advises office directors and regional administrators to determine that the primary purpose of technical conferences is for information exchange or education and not to promote the financial or business success of the sponsoring entity. (c)
- Resolves appeals by contractors when the NRC project manager or higher authority refuses authorization to publish in the open literature or to present a paper. (d)

**Executive Director for
Operations (EDO)
(031) (continued)**

- Transmits to the Commission for informal review before presentation any speeches, papers, or viewgraphs that NRC staff plan to present to international groups or while on foreign travel if the material to be presented involves policy issues. (e)
- Transmits to the Commission, for information only, any NRC staff speeches, papers, or viewgraphs that do not involve policy issues and that are to be presented to international groups or while on foreign travel. Material need not be submitted to the Commission in advance of the required date of submission for inclusion in the proceedings of the conference. (f)
- Seeks advice and counsel on ethics and on compliance with standards of conduct regulations, when necessary. (g)
- May delegate the responsibilities and authorities delineated in this section, as appropriate. (h)

**Director, Office of Public Affairs (OPA)
(032)**

- Assesses news media and public interest and advises the NRC staff on the preparation of public announcements and coordinates the media aspects for the presentation and publication of speeches, papers, and journal articles. (a)
- Reviews NRC contractors' proposed press or other media releases for appropriateness upon the NRC project manager's request. (b)
- May delegate the responsibilities and authorities delineated in this section, as appropriate. (c)

**Director, Office of International
Programs (OIP)
(033)**

- Reviews NRC staff speeches and papers involving international interests and advises participants in international conferences on protocol and requirements for advance copies of papers and copies for distribution at meetings. (a)

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**Director, Office of International
Programs (OIP)
(033) (continued)**

- May delegate the responsibilities and authorities delineated in this section, as appropriate. (b)

**Director, Office of State Programs (OSP)
(034)**

- Reviews NRC staff speeches and papers that involve States' interests. (a)
- May delegate the responsibilities and authorities delineated in this section, as appropriate. (b)

**Office Directors and
Regional Administrators
(035)**

- Review and authorize publication or presentation of speeches, papers, and journal articles on technical issues that do not have significant implications with respect to new or unresolved policy issues for NRC staff members in their office or region. (a)
- Review and approve or transmit for approval at a higher level all NRC staff speeches, papers, and journal articles, either technical or nontechnical, in which new or unresolved policy issues are discussed. See Handbook 3.9 for specific procedures. (b)
- Approve whether contractor technical and regulatory work may be reported by means of speeches, papers, and journal articles. (c)
- Resolve disagreements over public presentation or publication of NRC staff and contractor speeches, papers, and journal articles, referring appeals of their decisions to the EDO. (d)
- Review and approve any speeches, papers, or viewgraphs the NRC staff will present to international groups or while on foreign travel. Prepare a transmittal memorandum for the EDO to forward the presentations to the Commission for review if the presentations involve policy issues. Those presentations not involving policy issues should be submitted to the Assistant for Operations for transmittal to Commissioner Assistants for information. (e)
- May delegate the responsibilities and authorities delineated in this section, as appropriate. (f)

**Director, Office of Administration (ADM)
(036)**

Develops and maintains, in consultation with office directors, NRC policies, standards, procedures, and guides for the publication and disclosure of NRC staff and contractor papers, and journal articles.

**Director, Division of Contracts (DC), ADM
(037)**

- Initiates a purchase order for NRC staff upon receipt of NRC Form 30, "Request for Administrative Services" (see Exhibit 5 of Handbook 3.9), from DFIPS, ADM, requesting payment of page charges and forwards a copy of the purchase order to the Division of Accounting and Finance (DAF), Office of the Controller (OC). (a)
- Establishes, in consultation with project managers, the terms and conditions of contracts as they pertain to papers, journal articles, and other media releases. (b)

**Director, Division of Accounting and
Finance (DAF), Office of the Controller (OC)
(038)**

Examines and pays properly approved invoices for page charges.

**Applicability
(3.9-04)**

The provisions of this directive and handbook apply to all NRC organizations (except NRC boards, advisory committees, and the Commissioners) and NRC contractors. This directive does not apply to presentations at routine NRC staff meetings or at planned, formal encounters between one or more NRC staff members and one or more outside persons with the expressed intent of discussing substantive issues that are directly associated with NRC's regulatory and safety responsibilities. For the purposes of this directive, the term "contractor" includes organizations performing work for NRC under contracts or interagency agreements.

Handbook (3.9-05)

Procedures for preparing, approving, recording, and disclosing speeches and papers for conferences, symposiums, meetings, and journals are contained in Handbook 3.9.

References (3.9-06)

Atomic Energy Act of 1954, as amended, Section 141 (42 U.S.C. 2161).

“Copyrights,” 17 U.S.C. 101, 105, and 301.

Federal Acquisition Regulations, Subparts 27.4 and 52.2.

Federal Council for Science and Technology, “Notice of Policy on Page Charges,” 39 FR 40611, dated November 19, 1974.

“Standards of Ethical Conduct for Employees of the Executive Branch,” 5 CFR Part 2635.

Memorandum to Office Directors and Regional Administrators from J. M. Taylor, EDO, Subject: “Participation in Industry-Sponsored Seminars or Technical Conferences,” dated July 14, 1993.

NRC Management Directive 3.7, “Unclassified Staff Publications in the NUREG Series.”

— 3.8, “Unclassified Contractor and Grantee Publications in the NUREG Series.”

— 3.11, “Conferences and Conference Proceedings.”

— 5.5, “Public Affairs Program.”

— 11.7, “NRC Procedures for Placement and Monitoring of Work With the Department of Energy.”

***NRC Staff and Contractor
Speeches, Papers, and
Journal Articles on
Regulatory and Technical
Subjects***

Handbook

*(Formerly
Appendices 3205
and 3206)*

3.9

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Part I

Procedures for NRC Staff Speeches, Papers, and Journal Articles

Author (A)

Following office approval, take the following steps in the preparation, review, authorization, and disclosure of speeches, papers, and journal articles:

- Prepare the speech, paper, or journal article according to office procedures and the instructions of the conference, symposium, or meeting sponsors, or the journal in which the paper is to be published. (1)
- Obtain required technical and policy reviews and, when appropriate, ensure that the material does not contain classified, sensitive unclassified, or nonpublic information. Office directors and regional administrators review and authorize publication or presentation of all NRC staff speeches, papers, and journal articles that either discuss issues that do not have significant implications or include new or unresolved policy issues. Obtain appropriate authorization signatures on NRC Form 426, "Release to Publish Unclassified NRC Staff Publications" (Exhibit 1). (2)
- Forward any speeches, papers, or viewgraphs to be presented while on foreign travel to the office director for review and approval. Prepare a transmittal memorandum for the Executive Director for Operations (EDO) to forward the presentation materials to the Commission. (3)
- Send two copies of the speech, paper, or journal article, and a completed and signed NRC Form 426 to the Division of Freedom of Information and Publications Services (DFIPS), Office of Administration (ADM), at the time of submission to the journal or commercial publisher. On these copies, state the name, location, and date(s) of the conference at the top of the first page of the speech or paper and number the pages sequentially (see Exhibit 2).

Author (A) (continued)

If the paper or journal article is to be published in a copyrighted journal, clearly indicate the following on the first page of each copy submitted with NRC Form 426: (4)

Submitted to (name of journal or publisher) for publication on (date). This preprint (draft) is not to be cited or reproduced. (a)

This is a preprint (draft) of a paper intended for publication in a journal or proceedings. Since changes may be made before publication, this preprint (draft) is made available with the understanding that it will not be cited or reproduced without the permission of the author. (b)

- If requested by the journal or other publisher to transfer the copyright, advise the journal or other publisher in writing that the work was prepared by a Government officer or employee as part of his or her official duties and is not copyrightable. See sample letter, Exhibit 3. (5)
- When the paper or article is published, replace the draft copies with copies of the paper or article by sending two properly identified copies to DFIPS. (6)
- *If page charges will be assessed for publication*, submit a completed and signed NRC Form 30, "Request for Administrative Services" (Exhibit 5) to DFIPS for approval; the NRC Form 30 must be transmitted for funding and an obligating document issued by ADM *before* the paper is sent for publication. If an NRC Form 30 is not submitted, NRC may refuse to pay the page charges, and the author will become personally responsible. (7)
- Request that the professional society involved send invoices for page charges to the Division of Accounting and Finance, Office of the Controller. (8)
- When assistance is needed in completing these steps, contact the Publications Branch, DFIPS. (9)

Author (A) (continued)

- If the speech, paper, or journal article is not accepted and the author desires to publish his or her findings as an NRC staff publication, comply with the provisions of Management Directive 3.7, "Unclassified Staff Publications in the NUREG Series." (10)

Office Directors and Regional Administrators (B)

Office directors and regional administrators will take the following steps in the preparation, review, authorization, and disclosure of NRC staff speeches, papers, and journal articles:

- For speeches, papers, and journal articles on technical issues that do not have significant implications with respect to new or unresolved policy issues—(1)
 - Review and authorize these documents for presentation and publication. The author's *immediate supervisor* will then approve and sign the NRC Form 426, "Release to Publish Unclassified NRC Staff Publications" (Exhibit 1). (a)
 - In the event of the author's unresolvable disagreement with the result of the review, grant authorization for presentation and publication *contingent upon inclusion of the following disclaimer (verbal or printed) as a footnote to the title.* (b)

This speech, paper, or journal article was prepared (in part) by an employee(s) of the United States Nuclear Regulatory Commission. It presents information that does not currently represent an agreed-upon staff position. NRC has neither approved nor disapproved its technical content.

- In any case, authorize presentation or publication of the speech, paper, or journal article before the scheduled time for presentation and not more than 15 days after the author's request. (c)
- Inform the EDO of their accepted speaking engagements, including appearances as panel members, even though no prepared remarks may be required. In cases in which prepared remarks are to be given, send a copy of the remarks to the EDO. (d)

Office Directors and Regional Administrators (B) (continued)

- Forward their own speeches, papers, and journal articles to the EDO for appropriate review. (e)
- If appropriate, inform the Office of Public Affairs of proposed NRC staff speeches, papers, and journal articles to assess possible interest by news media and the general public. (f)
- When speeches, papers, and journal articles, either technical or nontechnical, discuss new and unresolved policy issues—(2)
 - Obtain reviews by the directors or other appropriate management representatives of other organizations if the functions of other offices are involved. (a)
 - Arrange for review by the EDO of speeches, papers, and journal articles, either technical or nontechnical, in which new or unresolved policy issues are discussed. If the issues are of agency-wide significance, the EDO will transmit the speech, paper, or journal article to the Commission. (b)
 - Forward their own speeches, papers, and journal articles to the EDO for appropriate review. (c)
 - In the event of the author's unresolvable disagreement with the result of the review, grant authorization for presentation and publication *contingent upon inclusion of the following disclaimer (verbal or printed) as a footnote to the title.* (d)

This speech, paper, or journal article was prepared (in part) by an employee(s) of the United States Nuclear Regulatory Commission. It presents information that does not currently represent an agreed-upon staff position. NRC has neither approved nor disapproved its technical content.

- In any case, authorize presentation or publication of the speech, paper, or journal article not more than 30 days after the author's request for authorization. (e)
- If the policy issues discussed are published NRC policy, review and authorize these documents for presentation and publication. (f)

Office Directors and Regional Administrators (B) (continued)

- Review and approve any speeches, papers, or viewgraphs the NRC staff will present to international groups or while on foreign travel. Prepare a transmittal memorandum for the EDO to forward the presentations to the Commission. (3)
- Ensure that an NRC Form 426 is prepared and signed for each speech, paper, or journal article to signify that all necessary reviews have been made and that authorization for presentation and publication has been granted. The signature on the NRC Form 426 also signifies that the signer believes that national security, patent rights, copyrights, and commercial proprietary interests will not be compromised by the presentation, publication, distribution, or dissemination of the speech, paper, or journal article. (4)

Disclosure Requirements (C)

All papers authorized for presentation as speeches and for submission for publication in transactions, proceedings, or journals must be transmitted in duplicate with a completed NRC Form 426 (Exhibit 1) to DFIPS for recordkeeping and transmittal to the NRC Public Document Room (PDR). (1)

Final drafts of journal articles and papers for commercial publication must also be submitted in duplicate, along with an NRC Form 426, to DFIPS for processing for accession by the PDR at the time they are submitted to the journal or commercial publisher. (2)

When the article or paper is published, the draft must be replaced with copies of the published article or paper by sending two properly identified copies to DFIPS. (3)

Copyright Provisions and Exclusion (D)

Publishers routinely ask those who submit articles for publication to execute copyright transfer forms before publication. However, the copyright law provides that no copyright exists in works prepared by an officer or employee of the U.S. Government as part of his or her official duties. Thus, no copyright can be transferred with respect to these works. If a request for transfer or transfer "to the extent transferable" is received, advise the publisher in writing that the work

Copyright Provisions and Exclusion (D) (continued)

was prepared by a Government officer or employee as part of his or her official duties and is not copyrightable. A sample letter is provided as Exhibit 3 in this handbook. (1)

It is possible for NRC staff members to secure copyrights in their private writings prepared during their own time. This possibility was recognized by a House of Representatives report on the copyright law that stated—(2)

A Government official or employee would not be prevented from securing copyright in a work written at that person's own volition and outside his or her duties, even though the subject matter involves the Government work or professional field of the official or employee.

Any person who has doubts on this issue should seek a ruling from the Office of the General Counsel (OGC). In resolving these questions, OGC will consider not only the provisions of the copyright law but also applicable standards of conduct. (3)

If the private writing relates to NRC functions, it is requested that the following note be added—(4)

This speech, paper, or journal article was prepared, in part, by an employee(s) of the United States Nuclear Regulatory Commission on his or her own time apart from his or her regular duties. NRC has neither approved nor disapproved its technical content.

The copyright law does not speak specifically to a work presented or distributed without any notice of copyright at a scientific meeting. It appears that the copyright law does not invalidate a copyright because the work was simply presented orally by the author at a public gathering. Unpublished literary works, regardless of the nationality or domicile of the author, are protected by the copyright law. (5)

Copyright Provisions and Exclusion (D) (continued)

NRC staff members should be aware of the rules on private speeches or writings in Subpart H of the standards of conduct regulations (5 CFR Part 2635). In particular, section 2635.807 of the conduct regulations prohibits employees from receiving any compensation for any outside teaching, speaking, or writing that relates to the employee's official duties. (6)

Part II

Guidelines for NRC Contractor Papers, Speeches, and Journal Articles

Procedures for the NRC Project Manager (A)

The following guidelines should be used in determining whether reporting by means of papers and journal articles will be authorized and whether press or other media releases will be approved.

Authorization in Statement of Work (1)

Specify whether the contractor's principal investigators are authorized to report technical and regulatory work being performed for NRC within the scope of the contract by means of papers and journal articles. If reporting is to be authorized in lieu of submitting formal reports, state the following in the contract or statement of work: (a)

The contractor's investigator(s) may publish the results of this work in the open literature instead of submitting a final report and presenting papers at public or association meetings at interim stages of the work.

The NRC project manager should state the following in the statement of work for review of speeches, papers, and journal articles. (b)

The contractor's investigator(s) may publish the results of this work in the open literature instead of submitting a final report and presenting papers at public or association meetings at interim stages of the work if the article or paper has been reviewed by the NRC project manager in draft form and agreement has been reached on the content. The work in final form should be submitted to the project manager accompanied by an NRC Form 426A.

Procedures for the NRC Project Manager (A) (continued)

Authorization in Statement of Work (1) (continued)

If agreement on the content has not been reached, NRC may also ask that the paper include, in addition to the standard statement "Work supported by the U.S. Nuclear Regulatory Commission," any caveats necessary to cover NRC objections. If NRC objections cannot be covered in this manner, NRC can refuse to authorize publication in the open literature and the presentation of papers.

In the latter case, NRC will inform the contractor of the decision in the same manner as for reports. See Management Directive (MD) 3.8, "Unclassified Contractor and Grantee Publications in the NUREG Series." The contractor is then free to publish without NRC identification of the information. This option will not affect payment of the contract work costs. Decisions by the NRC project manager or a higher level of authority may be appealed to the NRC Executive Director for Operations (EDO). (c)

NRC project managers and contractor officials who are authorized to sign NRC Form 426A, "Release to Publish Unclassified NRC Contractor, Consultant, or Conference Proceedings Reports" (see Exhibit 6), certify that the NRC contractor speeches, papers, or journal articles are authorized by NRC and that they have undergone appropriate peer review for technical content and for material that might compromise commercial proprietary rights. Also ensure that the material does not contain classified, sensitive unclassified, or nonpublic information. (d)

The disclaimer found in Section A(7)(d) of this part must be placed on all published papers and articles. This language should be placed in the Special Provisions Section H of the contract. (e)

If the contractor proposes to publish in the open literature or present the information at meetings in addition to submitting the required technical reports, approval of the proposed article or presentation should be obtained from the NRC project manager. The NRC project manager must either approve the material as submitted, approve it subject to NRC suggested revisions, or disapprove it. In any event, a project manager may disapprove or delay presentation or publication of papers on information that is subject to Commission approval that has not been ruled upon or that has been disapproved. (f)

Procedures for the NRC Project Manager (A) (continued)

Authorization in Statement of Work (1) (continued)

Presentation or publication in the open literature of papers or data based on reports already approved by NRC as formal final reports does not require NRC approval. (g)

Page Charges (2)

If page charges are involved, they may be paid from the contract funds if authorized by the NRC project manager. Consult the Glossary of this directive under "Journals" for Federal policy on page charges.

Travel Costs (3)

If presentation of a paper at a public association meeting has been authorized in the statement of work, the NRC project manager may authorize payment of the travel costs involved from the contract funds. If the NRC project manager determines that presentation of the paper does not support the NRC program or project, even though the presentation may be authorized, the contractor will not be authorized to charge the cost of the presentation to the contract funds. This decision will not affect payment of the contract work costs. (a)

If the presentation or paper is in addition to the required technical reports and the NRC project manager determines that it will benefit the NRC project, the project manager may authorize payment of travel and the publishing costs, if any, from the contract funds. If the project manager determines that the article or presentation would not benefit the NRC project, the project manager can specify that costs associated with the presentation or publication will be borne by the contractor. (b)

Patent Classification and Commercial Proprietary Rights (4)

Publications and presentations made publicly available may not include information that would compromise the national security, patent rights, copyrights, or commercial proprietary rights nor include nonpublic NRC information. The project manager may request the assistance of the Office of the General Counsel (OGC) and the Division of Security, Office of Administration (ADM), as needed, in making decisions. Additional guidance is contained in the patent and security review provisions of MD 3.8.

Procedures for the NRC Project Manager (A) (continued)

Contractor Request for Review (5)

The contractor may request NRC review of papers and journal articles on technical and regulatory issues for possible policy implications before completion of NRC Form 426A, "Release to Publish Unclassified NRC Contractor, Consultant, or Conference Proceedings Reports" (Exhibit 6). Contractors will not be authorized to present themselves as speaking for the Commission on NRC policy issues in papers and journal articles. Contractor comments on NRC policy issues must be accompanied by the following disclaimer:

The views expressed in this paper or journal article are not necessarily those of the U.S. Nuclear Regulatory Commission.

Disposition of Papers or Journal Articles Not Accepted by Professional Societies or Journals (6)

If the proposed paper or journal article is not accepted by the journal or other publisher and was prepared in lieu of a formal report, the author must submit his or her findings as an NRC contractor publication. The provisions of MD 3.8 or MD 11.7, "NRC Procedures for Placement and Monitoring of Work With the Department of Energy," are applicable.

Disclosure Requirements (7)

All papers authorized for presentation as speeches and for submission for publication in transactions, proceedings, or journals must be transmitted in duplicate with a completed NRC Form 426A (Exhibit 6) to the NRC project manager. Upon receipt, the NRC project manager should decide if the paper will be placed in the NRC Public Document Room (PDR). The NRC project manager should then indicate on the NRC Form 426A whether or not the paper was sent to the PDR, co-sign the form, and send the form to the Division of Freedom of Information and Publications Services (DFIPS), ADM, for recordkeeping of reviews and approvals. (a)

Final drafts or preprints of journal articles and papers for commercial publications must also be submitted in duplicate to the NRC project manager, along with the NRC Form 426A. The NRC project manager should then send one copy of the final draft or preprint for accession by

Procedures for the NRC Project Manager (A) (continued)

Disclosure Requirements (7) (continued)

the PDR at the time these documents are submitted to the journal or commercial publisher. The final draft or preprint must be marked to show where it is to be published and state that that version is not to be cited or referenced. The NRC Form 426A should be forwarded to DFIPS in the same manner as noted in the preceding paragraph. (b)

When the article or paper is published, the final draft must be replaced with copies of the published article or paper by sending two properly identified copies to the NRC project manager. The project manager will send one copy to the PDR and will ensure that proper identification and any copyright notices, if applicable, are in place. (c)

All published papers and articles must include the following disclaimer:

This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, expressed or implied, or assumes any legal liability or responsibility for any third party's use, or the results of such use, of any information, apparatus, product, or process disclosed in this report, or represents that its use by such third party would not infringe privately owned rights. The views expressed in this paper are not necessarily those of the U.S. Nuclear Regulatory Commission.

This disclaimer should be included in the Special Provisions Section H of the contract. (d)

Copyright Provisions and Exclusion (8)

Under the provisions of NRC contracts and interagency agreements in which work is placed with other agencies or their contractors, *the contractor must not, without prior written authorization of the contracting officer, seek to enforce statutory copyrights in any contract work first produced in performance of the contract. If a request for copyright transfer is received, the publisher should be answered in writing using the sample letter in Exhibit 4 of this handbook.* (a)

Procedures for the NRC Project Manager (A) (continued)

Copyright Provisions and Exclusion (8) (continued)

Whether a writing by an NRC contractor employee is governed by the provisions of an NRC contract or interagency agreement, or is a copyrightable private work, can be a close question. Any person who has doubts on this issue should seek a legal ruling. In resolving these questions, counsel would consider not only the provisions of the copyright law but also applicable standards of conduct regulations (5 CFR Part 2635). Following the advice of counsel, the project manager should then add language to the Special Provisions Section H of the contract specifying whether the work can be copyrighted. (b)

Rights in Data (9)

All contracts that require data to be produced, furnished, acquired, or specifically used in meeting contract performance requirements must contain terms that delineate the respective rights and obligations of the Government and the contractor regarding the use, duplication, and disclosure of such data. If there are questions concerning policy on the Government's need and a contractor's legitimate proprietary interest in the data, NRC legal counsel and contracting expertise should be obtained.

Press or Other Media Releases (10)

A contractor may request permission to issue a press or other media release on the work being done. The request must be made to the NRC project manager, who will consult with his or her management and the Office of Public Affairs. The contractor may not issue a press or other media release on NRC work without this prior coordination. This coordination may be accomplished by telephone with the NRC project manager responsible for expeditious handling of the work. Decisions not to release information or delays in handling by the NRC project manager may be appealed to the NRC EDO.

Procedures for NRC Contractor Authors (B)

NRC contractor authors will take the following steps for the preparation, review, approval, and disclosure of papers and journal articles:

Procedures for NRC Contractor Authors (B) (continued)

- Prepare the paper or journal article under the contract or statement of work provisions and instructions of the conference, symposium, or meeting sponsors, or the journal in which the paper is to be published. (1)
- Obtain required reviews and appropriate signatures on NRC Form 426A (Exhibit 6). Send two copies of the paper or journal article and a completed and signed NRC Form 426A to the NRC project manager. On these copies, state the name, location, and date(s) of the conference at the top of the first page of the speech or paper and number the pages sequentially (see Exhibit 2). (2)
- Clearly indicate, if the paper or journal article is to be published in a copyrighted journal, the following information on the first page of each copy submitted with an NRC Form 426A: (3)

Submitted to (name of journal or publisher) for publication on (date). This preprint (draft) is not to be cited or reproduced. (a)

This is a preprint (draft) of a paper intended for publication in a journal or proceedings. Since changes may be made before publication, this preprint (draft) is made available with the understanding that it will not be cited or reproduced without the permission of the author. (b)

- Respond to the journal or other publisher in writing, using the format of the sample letter in Exhibit 4, if requested by the journal or other publisher to transfer the copyright. (4)
- Contact DFIPS when assistance is needed in completing these steps. (5)

Glossary*

Conference. Any formal national or international public *meeting* of interest to NRC convened for the interchange of views and information on the programmatic, management, or administrative aspects of the regulatory process and related confirmatory research, including reactor safety technology. These *meetings* are typically characterized by formal agendas and the issuance of invitations. The publication and distribution of *transactions* or *proceedings* may be involved. Not included in this definition are press conferences, formal or informal NRC staff meetings, including those to which applicants, vendors, constructors, or contractors may be invited, and *meetings* of informal working groups and standards committees, with or without participation of non-NRC personnel.

Conference Sponsor. A body that assumes responsibility for organizing a conference. It may be a U.S. national, public, or private organization, or a foreign national or international group, under contractual agreement with this agency.

Disclosure Requirements. Pre- and post-*conference*, *symposium*, or *meeting* requirements for availability of speeches and papers to conference participants (see *handouts*) and to the public (see *public availability*).

Handouts. Copies of the *paper* on which a speech is based that are made available to the audience at the time of the speech.

Journals. Publications of technical and professional societies that accept complete *papers* or articles for publication. Most journals require review and acceptance by their own reviewers and editorial board before publication. They may also assess *page charges*. Many will not accept papers previously published in any type of formal document that is publicly available. Special provisions for this type of publication by Government employees were established in a

*Words in *italics* are also defined in the Glossary.

Glossary (continued)

Federal Register notice filed November 18, 1974. (See 39 FR 40611, dated November 19, 1974.) This notice of policy of the Federal Council for Science and Technology on *page charges* establishes the following criteria for use by Government agencies in honoring *page charge* bills or invoices submitted by journal publishers: “(1) The research papers report work supported by the Government; (2) mandatory or voluntary *page charge* policies are acceptable, provided that the publication’s *page charge* policy is administered impartially for Government-sponsored research reports; and (3) the journals involved are not operated for profit.” Before submission of papers for publication, authors should inquire about *page charges*.

Meetings. For the purpose of this directive, meetings are synonymous with *conferences* and *symposiums*.

NRC Project Manager. The NRC individual responsible for the performance of a consultant, a contractor, or a subcontractor, or for work performed under an interagency agreement.

Page Charges. The charges typically assessed by professional societies and journals for publication of abstracts, summaries, or complete papers in *transactions*, *proceedings*, and *journals*. Payment of the *page charges* usually ensures delivery of 50 or more free copies of the published paper to the author.

Papers. The formal written transcript of a *speech* or a formal written manuscript suitable for publication in *transactions*, *proceedings*, and *journals* following peer review and acceptance by the *conference sponsors* or a *journal*. If a speech is not to be published in abstract, summary, or paper form, the formal written paper may not be required except for record and public availability, as in a press release and in the NRC Public Document Room (PDR).

Proceedings. Publications prepared by or for *conference*, *symposium*, or *meeting* sponsors to record the information presented at the *conference*. Submission of a complete *paper* for publication may be mandatory or voluntary and the *papers* may be required to be in camera-ready copy, may be composed from a draft copy, or may be edited and composed, depending upon the requirements of the conference sponsor and the publisher. These publications may

Glossary* (continued)

require peer review and modifications for acceptance, and the payment of *page charges*. Information on all these aspects of publication should be available to the contributor in advance of the *conference*.

Public Availability. *Speeches, papers, and journal articles* that do not contain classified, sensitive unclassified, or nonpublic information may be made publicly available, that is, they must be available for inspection and copying for a fee, as in the NRC Public Document Room (PDR), or in the form of a report or *conference* proceedings available at the Government Printing Office (GPO) and the National Technical Information Service (NTIS), or ordinarily available from a public library, as in a professional society *journal* or *conference* proceedings published by a professional organization. Because of the possible delay that may occur between the time a journal article or paper for a conference proceeding that is to be copyrighted and published commercially is accepted and printed, the final draft or preprint must be sent for processing for accession by the PDR at the time it is submitted to the journal or commercial publisher. The draft must be marked to show where it is to be published and state that it is not to be cited or reproduced. See Part I, Section (C), and Part II, Section (A)(7), both entitled "Disclosure Requirements," of this handbook for more detail. When the journal article or conference proceedings document is published, the draft must be replaced with a copy of the article or paper.

Speeches. The oral presentation of a *paper*.

Symposiums. Symposiums are synonymous with *conferences* and *meetings* in this context.

Transactions. Publications prepared by or for *conference, symposium, or meeting* sponsors to record abstracts or summaries of papers presented at *conferences*. For these publications, those abstracts and summaries submitted in advance of the *conference, symposium, or meeting* undergo peer and program review for acceptance for presentation at the *conference, symposium, or meeting*. Transactions are normally available to participants before or at the *meeting*. Usually, *conferences* at which transactions are prepared are not recorded in *proceedings*. If the author desires publication of the complete paper, the author must submit it to a *journal* for consideration.

**Volume 3, Part 1 - Publications, Mail, and Information Disclosure
 NRC Staff and Contractor Speeches, Papers, and Journal Articles on
 Regulatory and Technical Subjects
 Handbook 3.9 Exhibits**

Exhibit 1

NRC Form 426, "Release to Publish Unclassified NRC Staff Publications"

NRC FORM 426 13-89 NRCM 3201		U.S. NUCLEAR REGULATORY COMMISSION		1. REPORT NUMBER (If any)	
RELEASE TO PUBLISH UNCLASSIFIED NRC STAFF PUBLICATIONS					
<i>(Please Type or Print)</i>				Obtain from the Technical Publications Section on 402-7263	
2. TITLE AND SUBTITLE (State in full as shown on report, speech, or paper.)					
3. CONFERENCE PAPER OR SPEECH (If it is a conference paper or speech, provide date and location of conference or speech.)					
4. DISTRIBUTION (Use NRC distribution codes. Provide mailing labels for special distribution not covered by NRC codes. If NRC staff, provide name and mail stop only. If external, provide complete mailing address.)					
5. OMB-REQUIRED DATA SURVEY					
A. Hours spent writing, editing, and compiling the report.					
B. Number of graphic figures (including tables).					
C. Total pages typed, including all drafts. Include pages typed by the program office and processed by the Electronic Composition Services Section.					
D. Computer time (including word processing).					
E. Frequency of issuance or update. <input type="checkbox"/> ANNUALLY <input type="checkbox"/> SEMIANNUALLY <input type="checkbox"/> QUARTERLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> LESS OFTEN					
YES	NO	6. CERTIFICATION (ANSWER ALL QUESTIONS)			
		A. REFERENCE AVAILABILITY - Is all material referenced in this report available to the public either through a public library, the Government Printing Office, the National Technical Information Service, or the NRC Public Document Room? If no, list the specific availability of a referenced document with the reference listing below.			
		SPECIFIC AVAILABILITY			
		B. COPYRIGHTED MATERIAL - Does this report contain copyrighted material? If yes, attach a letter of release from the source that owns the copyright.			
		C. COMPUTER CODES - If this report generates a computer code, does it comply with the standards in NRC Manual Chapter 0304, "Planning and Control of Automatic Data Processing (ADP) Resources?"			
		D. PATENT CLEARANCE - Does this report require patent clearance? If yes, the NRC Patent Counsel must signify clearance by signing below.			
		NRC PATENT COUNSEL (Type or Print Name)		SIGNATURE	
				DATE	
		E. INFORMATION REQUESTS - Does this report contain any questionnaires, surveys, or data collection requests?			
		F. LICENSING REQUIREMENTS - Does this report impose requirements on licensees?			
7. RESPONSIBLE STAFF MEMBER					
Type or Print Name		SIGNATURE		OFF/DIV	TELEPHONE
				MAIL STOP	DATE
8. ACTION REQUESTED			9. AUTHORIZATION		
PRINT AS A NUREG			NRC OFFICIAL AUTHORIZING RELEASE (Type or Print Name)		
PRINT IN NON-NRC PUBLICATION					
PAY PAGE CHARGES (ATTACH NRC FORM 340)			SIGNATURE		DATE
NO PAGE CHARGES REQUIRED					

NRC FORM 426 (3-89)

Exhibit 2

Sample Front Page Format for Speech for the Public Document Room (PDR)

14th Annual DOE Low-Level
Radioactive Waste Management Conference
Phoenix, Arizona, November 19-20, 1992

INTERIM STORAGE OF LOW-LEVEL RADIOACTIVE WASTE

Robert A. Nelson
U.S. Nuclear Regulatory Commission
Office of Nuclear Material Safety and Safeguards
Division of Low-Level Waste Management and Decommissioning

INTRODUCTION

The Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPA) establishes a series of milestones, penalties, and incentives to ensure that regional compacts and States make adequate progress toward being able to manage their low-level radioactive waste (LLW) by 1993. However, new LLW disposal facilities are not expected to be operational by January 1, 1993, and the compact commissions that control the existing LLW disposal sites are expected to either close or set conditions on receiving LLW from outside their regional compacts on January 1, 1993. Therefore, some licensees who generate LLW may be forced to store their LLW onsite, until disposal capacity is available, unless other arrangements for storage or disposal can be made. LLW disposal facilities, accessible by all States, may not be available until 1999 or later. This paper describes the current LLW disposal and storage situation and discusses (1) storage concerns, (2) storage in the State of Michigan, (3) Nuclear Regulatory Commission storage regulations and guidance, (4) procedures for increasing storage capacity, and (5) recent NRC rulemakings concerning LLW storage.

CURRENT SITUATION

STATUS OF CURRENTLY OPERATING LLW DISPOSAL FACILITIES

The LLW disposal facility in Beatty, Nevada, will close on December 31, 1992. Although originally scheduled to close on that date as well, the South Carolina legislature has authorized the LLW disposal facility at Barnwell, South Carolina, to remain open until January 1, 1996, subject to various conditions. However under both State law and a Southeast Compact Commission agreement, the Barnwell facility will close permanently to out-of-region waste on July 1, 1994. The facility will accept out-of-region waste before that date if the importation of such waste is approved by the Southeast Compact Commission. The Southeast Compact Commission has stated that compact regions and unaffiliated States that have access to the Barnwell facility on December 31, 1992, pursuant to their status of compliance with the LLRWPA, are eligible to contract with the Southeast Compact Commission for access to the facility, for generators in their respective regions or States. Currently, this means that the States of Michigan, Rhode Island, and New Hampshire, the District of Columbia, and Puerto Rico will be denied access.

Exhibit 3

Sample Letter on Copyright Agreement For NRC Staff

Dear _____:

We recently received a document for signature assigning copyright and republication rights in the submitted article (*title*) to (*name of publication*).

The work fits the description in the U.S. Copyright Act of a “United States Government work.” It was written as a part of my (our) official duties. This means it cannot be copyrighted.

It is freely available to you for publication and there are no restrictions whatever on your use of it, now or subsequently. Similarly, the U.S. Government has the right to publish or reproduce the published form of this contribution, or allow others to do so, for Government purposes.

Sincerely,

Exhibit 4

Sample Letter on Copyright Agreement For NRC Contractors

Dear _____:

We recently received a document for signature assigning copyright and republication rights in the submitted article (*title*) to (*name of publication*). This letter is offered in lieu of that document as a means of completing the transfer of ownership.

Accordingly, we hereby expressly transfer and assign our rights of ownership in the above cited work to (*name of publisher*).

You are advised, however, that the above assignment and any publication or republication of the above cited work is subject to the following Government rights:

The submitted manuscript has been authored by a contractor (grantee) of the U.S. Government under contract (grant) No. _____. Accordingly, the U.S. Government retains a nonexclusive, royalty-free license to publish or reproduce the published form of this contribution, or allow others to do so, for U.S. Government purposes.

In addition, each article which results from the placement of NRC work with a contractor or another government agency must state "Work Supported by the U.S. Nuclear Regulatory Commission, Office of _____ under Contract or Interagency Agreement number.

Sincerely,

Exhibit 5
NRC Form 30, "Request for Administrative Services"

NRC FORM 30 (6-94)		U.S. NUCLEAR REGULATORY COMMISSION		1. DATE OF REQUEST	2. DATE DUE (if applicable)
REQUEST FOR ADMINISTRATIVE SERVICES FOR HEADQUARTERS: MAIL TO THE APPROPRIATE MAIL STOP ON BACK				3. REQUEST NUMBER (LEAVE BLANK)	
4. TYPE OF SERVICE				5. PERSONAL PROPERTY APPROVAL	
BUILDING ALTERATIONS AND SERVICES COMPOSITION COPYING EDITING PHOTOGRAPHY/AUDIOVISUAL PRINTING AND DISTRIBUTION	PUBLISHING NUREGS SMALL PURCHASES, PROPERTY, AND LABOR SERVICES SUPPLIES WORD PROCESSING OTHER (Specify)	I certify that personal property assets within the Office/Division have been carefully screened for excess, are currently fully utilized, and the additional requested items are absolutely essential to work performance and will be used only for official purposes.			
7. REQUESTER		8. OFFICE		6. PROPERTY CUSTODIAN - SIGNATURE	
9. TELEPHONE NUMBER	10. FAX NUMBER	11. MAIL STOP	12. E-MAIL	7. DIVISION DIRECTOR/ENGINEER - SIGNATURE	
13. SPECIAL INSTRUCTIONS (INCLUDE TITLE, DISTRIBUTION, PRINTING SPECIFICATIONS, INSTRUCTIONS, STOCK NUMBERS, JUSTIFICATION, QUANTITIES, AND UNITS WHEN APPLICABLE)				8. SENSITIVITY For copyrighted material, sign below to indicate that you have received permission from the copyright owner to use the material.	
				CLASSIFIED SENSITIVE UNCLASSIFIED COPYRIGHTED MATERIAL	
				SIGNATURE - ADMINISTRATIVE OFFICER	
14. FUNDING INFORMATION					
JOB CODE	B & R NUMBER	BOG	FUND SOURCE	AMOUNT	
14a. FUNDS CERTIFIED AVAILABLE BY: SIGNATURE - CERTIFYING OFFICIAL				14b. DATE	
FOR PROCESSING USE ONLY (LEAVE THIS SECTION BLANK)					
15a. REQUIREMENT APPROVED - SIGNATURE		15b. DATE	15c. REQUIREMENTS OFFICER - SIGNATURE		15d. DATE
17. OFFICE OF ADMINISTRATION PROCESSING					
ACTION	SIGNATURE	DATE	ACTION	SIGNATURE	DATE
A. POSTED			C. DELIVERED		
B. FILLED			D. COMPLETED		
The material and/or services itemized above have been received in the quantity and quality specified, except as otherwise noted.			18a. SIGNATURE - RECEIPT		18b. DATE

Exhibit 5 (continued)

<u>TYPE OF SERVICE</u>	<u>MAIL STOP</u>	<u>TYPE OF SERVICE</u>	<u>MAIL STOP</u>
BUILDING ALTERATIONS AND SERVICES	T-7 D24	SMALL PURCHASES, PROPERTY, AND LABOR SERVICES	T-7 D27
COMPOSITION	T-6 E7	PUBLISHING NUREGs	T-6 E7
COPYING	O-P1 22	SUPPLIES	WHSE
EDITING	T-6 E7	WORD PROCESSING	T-6 E7
PHOTOGRAPHY/ AUDIOVISUAL	T-6 E7	OTHER	O-2 B7
PRINTING/DISTRIBUTION	O-P1 22		

