

U.S. NUCLEAR REGULATORY COMMISSION

DIRECTIVE TRANSMITTAL

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To: NRC Management Directives Custodians

Subject: Transmittal of Management Directive 9.7, "Organization and Functions, Office of the General Counsel."

Purpose: Management Directive 9.7 is being revised to reflect changes in the reorganization of the Office of the General Counsel effected March 1999.

Office of Origin: Office of the General Counsel

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Volume: 9 NRC Organization and Functions

Directive: 9.7 Organization and Functions, Office of the General Counsel

Availability: Rules and Directives Branch
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Organization and Functions Office of the General Counsel

Directive 9.7

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U. S. Nuclear Regulatory Commission

Volume: 9 NRC Organization and Functions

OGC

Office of the General Counsel Directive 9.7

Organization and Functions

Supervision

(9.7-01)

This office is under the supervision of the General Counsel who reports to the Commission.

Functions

(9.7-02)

This office directs matters of law and legal policy, providing opinions, advice, and assistance to the agency. Specifically, the office—

- Provides agency officials with legal opinions and advice with respect to all NRC regulatory activities including, but not limited to the interpretation of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Reorganization Plan No. 1 of 1980. (021)
- Provides advice on the legal form and content of proposed official actions. (022)
- Prepares or concurs, as appropriate, in delegations of authority, orders, licenses, other legal documents, including interagency agreements and contracts, and regulations, notices and other documents that are to be published in the *Federal Register*, except for those matters that have been specifically delegated by the Commission to the Atomic Safety and Licensing Board Panel and adjudicatory boards or presiding officers appointed therefrom. (023)

Functions

(9.7-02) (continued)

- Provides advice and assistance to the Office of Commission Appellate Adjudication on draft Commission decisions on reviews of orders of Atomic Safety and Licensing Boards, Administrative Law Judges and presiding officers. (024)
- Provides advice and assistance to NRC staff related to petitions for action under 10 CFR 2.206 and petitions for rulemaking. (025)
- Takes appropriate action to represent and protect the interests of the NRC in court proceedings, Agency proceedings, other administrative tribunals, and in relation to other government agencies, committees of Congress, foreign governments, or members of the public. (In accomplishing this function, due regard is taken of separation of functions requirements of the Administrative Procedure Act and Commission regulations.) (026)
- Requests, when appropriate, Department of Justice representation for present or former Federal officials or employees sued individually for actions performed within the scope of their employment, when this representation is requested, as provided in 28 CFR Part 50. (027)
- Prepares legislative material, including draft legislation initiated by the NRC, and comments on proposed legislation submitted to the NRC for its views in coordination with appropriate NRC officials and serves as NRC liaison to the Office of Management and Budget on legislative matters. (028)
- Drafts agency comments on proposed executive orders in coordination with appropriate NRC officials. (029)
- Serves as the Designated Agency Ethics Official for the NRC and as the NRC contact with the Office of Government Ethics, Office of Personnel Management, and the Department of Justice with respect to matters relating to conflicts of interest and ethical conduct, and provides advice and training to agency personnel on ethics issues, pursuant to ethics statutes and regulations, principally the Ethics in Government Act of 1978, Executive Order 12731, 5 U.S.C. §§ 7321-7326, 18 U.S.C. §§ 201-299, 5 CFR Parts 2634-2641, 5801. (0210)

Functions

(9.7-02) (continued)

- As requested, provides agency with legal advice and opinions on acquisitions matters, including agency procurement contracts, placement of work at Department of Energy national laboratories, other interagency agreements to acquire supplies and services, grants and cooperative agreements. (0211)
- Provides legal advice to the Chief Financial Officer on user fees and matters pertaining to the use of appropriated funds. (0212)
- Provides the agency with legal opinions and advice in connection with the administration of the Federal Advisory Committee Act, and performs other related duties as contained in 10 CFR Part 7, "Advisory Committees." (0213)
- Provides the agency with legal opinions and advice in connection with the administration of the Paperwork Reduction Act, the Small Business Regulatory Enforcement Fairness Act, the Freedom of Information Act, and the Privacy Act of 1974, as amended, and performs other related duties as contained in 10 CFR Part 9, "Public Records," Subparts A and B. (0214)
- Provides legal advice to the Chief Information Officer on information technology matters. (0215)
- Reviews and directs intellectual property law activities, including patent, trademark, copyright, and proprietary matters. (0216)
- Provides the Commission with legal opinions and advice in connection with the administration of the Government in the Sunshine Act and performs other related duties as contained in 10 CFR Part 9, Subpart C, "Government in the Sunshine Act Regulations." (0217)
- Represents the NRC staff in public hearings conducted in conjunction with the licensing and regulation of nuclear reactors, material users and facilities, and in connection with enforcement actions. (0218)
- Carries out responsibilities under the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. §§ 3801-812 and the Commission's implementing regulations in 10 CFR Part 13. (0219)
- Provides professional oversight of the Regional Counsel. (0220)
- Performs any other functions assigned by the Commission. (0221)

Delegation of Authority to the General Counsel

(9.7-03)

The General Counsel is authorized and directed to take any action necessary to carry out the functions and responsibilities assigned to the General Counsel by this or other official directives or communications, subject to the limitations they may prescribe. Delegations of authority for specific actions and applicable limitations are contained in NRC management directives covering broad functional areas.

Redelegation of Authority to the General Counsel

(9.7-04)

The General Counsel may, except where expressly prohibited, redelegate to others authority delegated to the General Counsel by this or other official directives or communications, subject to the limitations stated below and to other stipulations the General Counsel may deem necessary. (041)

The General Counsel shall send a memorandum specifying the redelegation to the Office of the Secretary with a copy to the Executive Director for Operations and the Director, Office of Human Resources. (042)

The General Counsel shall maintain a file of all redelegations. (043)

Organizational Structure and Internal Assignments

(9.7-05)

The Office of the General Counsel includes the Deputy General Counsel, Solicitor, the Program Support Branch, the Associate General Counsel for Licensing and Regulation, and the Associate General Counsel for Hearings, Enforcement, and Administration. An organization chart showing the internal organization of the office and a statement of functions of the subdivisions of the office are presented as Handbook 9.7, Parts I and II.

References

(9.7-05)

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

Code of Federal Regulations—

5 CFR Chapter XVI, Subchapter B, "Government Ethics."

10 CFR Part 1.23, "Office of the General Counsel."

10 CFR Part 7, "Advisory Committees."

10 CFR Part 8, "Interpretations."

10 CFR Part 9, "Public Records."

10 CFR Part 13, "Program Fraud Civil Remedies."

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

Ethics in Government Act of 1978, as amended (5 U.S.C. App., Section 101 et seq.).

Executive Order 12731, "Principles of Ethical Conduct for Government Officers and Employees," October 17, 1990.

Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801-12 et seq.).

Organization and Functions Office of the General Counsel

Handbook 9.7

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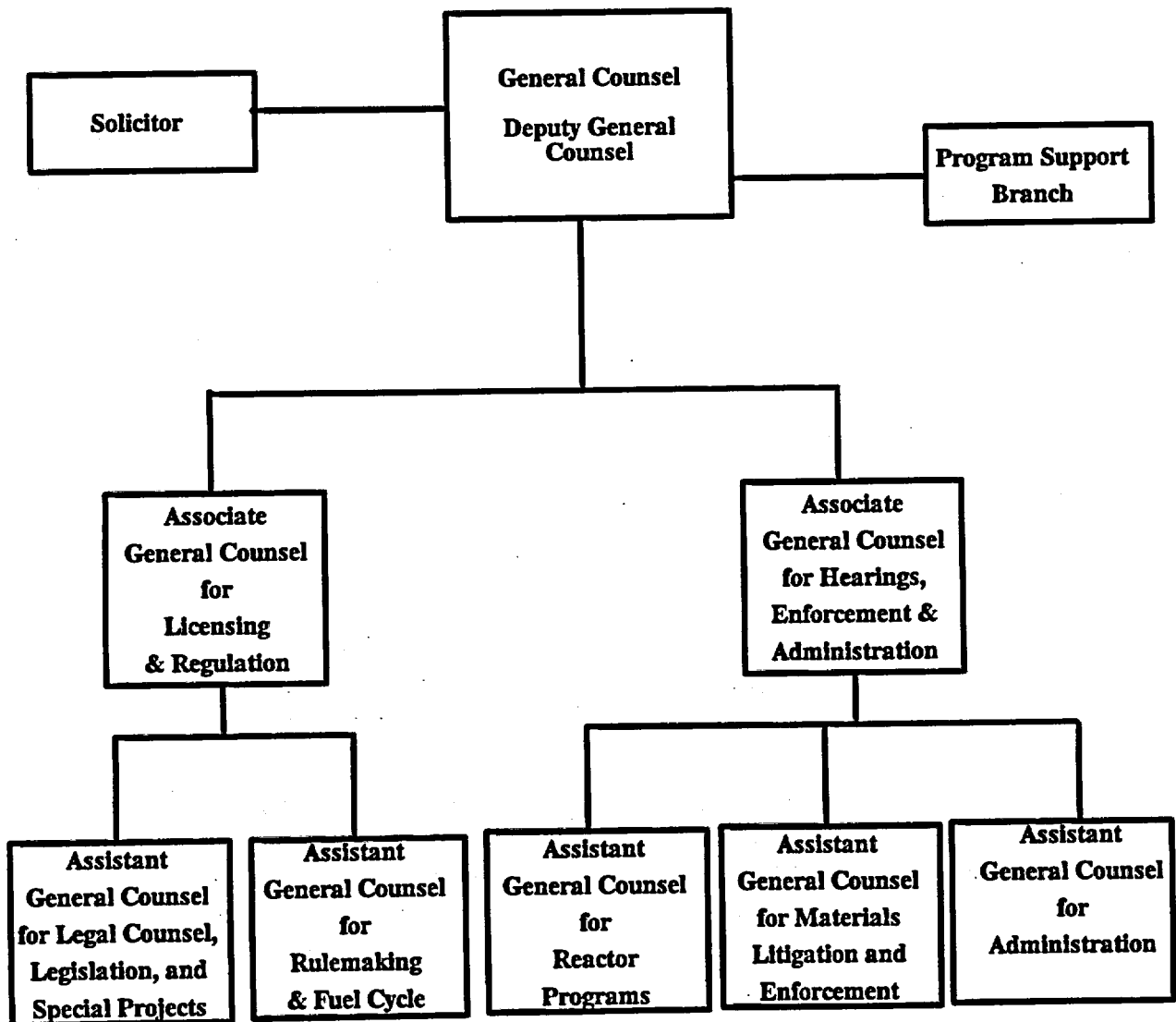
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Part I Organization Chart



Associate General Counsel for Licensing and Regulation and the Associate General Counsel for Hearings, Enforcement and Administration (D)

Participate with the General Counsel in directing and supervising all phases of the work within their purview. The associate general counsels have full authority to make decisions and take final action on behalf of the General Counsel within the framework of the policies established by the General Counsel.

Divisions in the Office of the General Counsel (E)

A division is headed by an assistant general counsel, who, except as otherwise authorized, reports to an associate general counsel. The assistant general counsels for legal counsel, legislation and special projects, rulemaking and fuel cycle, reactor programs, materials litigation and enforcement, and administration assist the General Counsel and associate general counsels in developing legal policy in areas of assigned responsibility and in rendering appropriate legal assistance. Each assistant general counsel has authority to take final action on all legal matters arising in the areas of assigned responsibility within the framework of the policies established by the General Counsel, except that all matters to be referred to the Executive Director for Operations or to the Commission will be subject to review by the General Counsel or an associate general counsel. Each division provides interpretations of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and other sources of authority for NRC officials in matters relating to the respective functions and responsibilities of the division, and specifically:

Assistant General Counsel, Legal Counsel, Legislation, and Special Projects (1)

- Provides legal advice and assistance to the Commission and the Office of Commission Appellate Adjudication in the review of adjudicatory decisions. (a)
- Represents the agency in Federal court litigation under the supervision of the Solicitor. (b)
- Provides legal advice and assistance to the Office of Investigations and coordinates with the Office of the Inspector General in matters involving the Program Fraud Civil Remedies Act of 1986. (c)

Divisions in the Office of the General Counsel (E) (continued)

Assistant General Counsel, Legal Counsel, Legislation, and Special Projects (1) (continued)

- Develops the Commission's legislative program, including the drafting of proposed legislation for Commission consideration. (d)
- Provides advice on the legal and policy implication for the NRC of legislation sponsored by others and referred to the Commission for comment by Congress or the Office of Management and Budget (OMB). (e)
- Serves as liaison to OMB on legislative matters. (f)
- Provides advice to NRC employees on issues pertaining to Federal standard or conduct requirements and other conflict of interest matters and administers the agency's ethics program. (g)
- Provides advice on issues arising under the Government in the Sunshine Act or the Federal Advisory Committee Act. (h)
- Handles special projects raising challenging legal issues. (i)
- Provides legal advice and counseling on international activities and export and import licensing matters. (j)
- Provides legal advice and counseling to the Office of the Chief Financial Officer on user fee matters. (k)
- Provides legal advice and counseling to the Chief Information Officer on electronic commerce and signature issues. (l)

Assistant General Counsel, Rulemaking and Fuel Cycle (2)

- Prepares and/or reviews NRC regulations and associated amendments and interprets those regulations for NRC staff, personnel from other Federal and state agencies, licensees, and others. (a)
- Provides legal advice and assistance to the Office of Nuclear Material Safety and Safeguards. (b)
- Initiates and drafts administrative procedures for licensing and regulation of the possession, use, and disposal of nuclear material. (c)

Divisions in the Office of the General Counsel (E) (continued)

Assistant General Counsel, Rulemaking and Fuel Cycle (2) (continued)

- Provides legal advice on NRC rulemaking matters, nuclear materials licensing, decommissioning, and transportation matters, high-level waste management and disposal, low-level waste management and disposal, fuel facility licensing matters, safeguards matters, matters involving Federal and state programs, matters involving relationships with Federal and international agencies, and administrative law and procedures. (d)

Assistant General Counsel, Reactor Programs (3)

- Acts as counsel for the NRC staff in public administrative proceedings before the Commission, Atomic Safety and Licensing Boards, and presiding officers relating to the health and safety; common defense and security; and environmental impact aspects of applications for nuclear facility licenses, related materials licenses, and associated amendments; license transfers and antitrust aspects of applications for nuclear facility licenses and associated amendments. (a)
- Provides legal advice to the NRC staff with respect to statutory and regulatory requirements for the licensing and regulation of nuclear reactor facilities and reactor operators. (b)
- Coordinates matters concerning the legal aspects of NRC antitrust responsibilities with the Department of Justice and other government entities. (c)

Assistant General Counsel, Materials Litigation and Enforcement (4)

- Provides legal advice concerning NRC inspection and enforcement activities including notices of violation, civil penalties, and orders. (a)
- Provides legal advice and assistance to all regional offices. (b)
- Coordinates and monitors the legal activities of regional counsels. (c)
- Acts as counsel for the NRC staff in public administrative proceedings before the Commission, Atomic Safety and Licensing Boards, and Administrative Judges relating to the issuance of materials licenses,

Divisions in the Office of the General Counsel (E) (continued)

Assistant General Counsel, Materials Litigation and Enforcement (4) (continued)

license amendments and license transfers, as well as enforcement actions involving facility or materials licenses, including the imposition of civil penalties and the modification, suspension, or revocation of licenses and other appropriate actions. (d)

Assistant General Counsel, Administration (5)

- Provides legal advice and assistance in the areas of interagency and international agreements, research and technical assistance contracts and other procurement matters, grants, patents, proprietary information and other intellectual property, the Freedom of Information Act (FOIA) and Privacy Act, financial claims, tort claims, budgetary functions, appropriation matters, telecommunications, information technology, security matters, labor relations and employment, equal employment opportunity, and other administrative functions. (a)
- Acts as counsel for the agency in administrative proceedings before the Federal Labor Relations Authority; the Equal Employment Opportunity Commission; the Merit Systems Protection Board; the Energy Board of Contract Appeals; bid protests at the General Accounting Office; and before arbitrators, examiners, or administrative law judges presiding over proceedings arising under an applicable collective bargaining agreement, the NRC grievance procedures, or 10 CFR Part 10, or any other administrative proceedings arising out of the agency's administrative functions. (b)

Program Support Branch (F)

- Provides program analysis and direction of program support activities for the Office of the General Counsel. (1)
- Is responsible for office program development and evaluation in the areas of resource utilization, personnel management, and organization planning and analysis. (2)
- Provides office services, including human resources, recruitment, training, information technology, equipment, space, correspondence control, mail and records control, and maintains law library and legislative reference service functions. (3)