

MD 3.9	NRC STAFF AND CONTRACTOR SPEECHES, PRESENTATIONS, PAPERS, AND JOURNAL ARTICLES ON REGULATORY AND TECHNICAL SUBJECTS	DT-17-107
<i>Volume 3,</i>	Information Management	
<i>Part 1:</i>	Publications, Mail and Information Disclosure	
<i>Approved by:</i>	Cynthia A. Carpenter, Director Office of Administration	
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EXECUTIVE SUMMARY		
Management Directive 3.9, “NRC Staff and Contractor Speeches, Presentations, Papers, and Journal Articles on Regulatory and Technical Subjects,” is revised to—		
<ul style="list-style-type: none"> • Update organizational titles and responsibilities, • Update title of NRC Project Manager to Contracting Officer’s Representative to accurately reflect current practices, • Clarify the process for contractor copyright claims and contractor requirements for authorization to issue press materials, and • Make minor editorial changes. 		

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I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission that all NRC staff and contractor speeches, presentations, papers, and journal articles on regulatory and technical subjects produced for official purposes be publicly disseminated, whenever possible, to provide the free interchange of ideas and feedback, which is essential to scientific and industrial progress and public understanding, and to enlarge the body of technical information. These documents may be disseminated at both NRC-sponsored and non-NRC-sponsored conferences, symposia, and meetings or submitted to professional journals or organizations. To accommodate the public dissemination of scientific and regulatory 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.

II. OBJECTIVES

- Encourage the presentation and/or publication of information on NRC regulatory policy, NRC technical programs, and NRC-sponsored research in speeches and papers at meetings of professional societies and by publication of articles in professional journals.
- Provide uniform procedures for review and approval of speeches, presentations, papers, and journal articles prepared by NRC staff and contractors.
- Establish recordkeeping and disclosure requirements and responsibilities for public availability.
- Provide procedures for approval and payment of page charges, as appropriate, for management notification and financial support.
- Ensure that national security, patent rights, and commercial proprietary rights are not compromised and that nonpublic NRC information is not released by presentation or publication of papers and journal articles without prior authorization.
- Provide for coordination of press or other media releases.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Executive Director for Operations (EDO)

1. Ensures that office directors and regional administrators 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.
2. Seeks advice and counsel on ethics and compliance with standards of conduct regulations, when necessary.
3. May delegate the responsibilities and authorities described in this section, as appropriate.

B. Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration, and Human Capital Programs (DEDM)

Provides direction and oversight for agency information management activities.

C. Office of the General Counsel (OGC)

1. Provides advice and counsel on the application of copyright laws; provides assistance in resolving questions on copyright issues; and, as necessary, reviews forms, letters, and releases regarding copyright matters.

2. Provides advice and counsel on ethics and compliance with standards of conduct regulations.

D. Director, Office of Public Affairs (OPA)

1. Assesses the interest of the news media and the public and prepares public announcements, when appropriate.
2. Coordinates the media aspects for the presentation and publication of speeches, presentations, papers, and journal articles.
3. Reviews for appropriateness all NRC contractors' proposed press or other media releases upon receipt from the NRC Contracting Officer's Representative (COR).
4. May delegate the responsibilities and authorities described in this section, as appropriate.

E. Director, Office of International Programs (OIP)

1. Advises participants in international conferences on protocol and requirements for advance copies of papers and copies for distribution at meetings.
2. May delegate the responsibilities and authorities described in this section, as appropriate.

F. Director, Office of Administration (ADM)

1. Develops and maintains, in consultation with the EDO, the DEDM, office directors, and regional administrators, NRC policies, standards, procedures, and guides for the publication and disclosure of NRC staff and contractor speeches, presentations, papers, and journal articles.
2. Provides funding to publish NRC staff papers and journal articles.
3. May delegate the responsibilities and authorities described in this section, as appropriate.

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

1. As appropriate, reviews NRC staff speeches and papers that involve States' interests.
2. May delegate the responsibilities and authorities described in this section, as appropriate.

H. Director, Office of Nuclear Security and Incident Response (NSIR)

Provides NRC information security program guidance and direction.

I. Chief Information Officer (OCIO)

Provides NRC program guidance and direction for Sensitive Unclassified Non-Safeguards Information (SUNSI) until it is terminated in accordance with 32 CFR Part 2002, and manages the NRC's implementation of the Controlled Unclassified Information (CUI) Program, including the NRC's transition to that program, in accordance with 32 CFR Part 2002.

J. Office Directors and Regional Administrators (or Delegates)

1. Advise staff with respect to domestic or international speeches, presentations, papers, and journal articles that describe or interpret a new or unresolved policy issue or have broad foreign policy implications.
2. As appropriate, review and authorize publication or presentation of domestic or international speeches, presentations, papers (or abstracts), and journal articles on technical or nontechnical issues that do not involve new or unresolved policy issues.
3. Review and approve any speeches, presentations, or papers that have agencywide significance that will be presented at either a formal bilateral meeting at NRC or at an executive branch interagency bilateral meeting.
4. Decide if a domestic or international speech, presentation, paper, or journal article should be provided to the Commission by an NRC daily note in accordance with Section 3.3(2)(a) of Office of the Executive Director for Operations (OEDO) Procedure 0350, Rev. 4.
5. Approve whether a contractor's work being performed for NRC within the scope of the contract may be reported by means of speeches, presentations, papers, and journal articles.
6. Resolve disagreements over the public presentation or publication of NRC staff and contractor speeches, presentations, papers, and journal articles, and refer any appeal of their decision to the NRC Differing Professional Opinions Program.
7. Resolve appeals from contractors when the NRC COR or a higher authority refuses to authorize publication in the open literature or presentation of a paper.
8. May delegate, as far down as, to the branch chief the responsibilities and authorities described in this section, as appropriate.

K. Director, Acquisition Management Division (AMD), ADM

1. Enters into contracts/agreements with appropriate source(s) to have material published upon receipt of a request submitted in accordance with Management Directive 11.1, "NRC Acquisition of Supplies and Services." A contractor acting on its own pays for its own material to be published. NRC does not pay for publishing when it has not been involved.
2. Authorizes NRC Purchase Card holders to purchase services as set forth in the NRC Purchase Card Handbook and as specifically delegated to individual purchase card holders. This may include purchase of services described in Section III.K.1 above.

L. Controller, Division of the Controller (DOC), Office of the Chief Financial Officer (OCFO)

1. Examines and pays properly approved invoices for publishing costs.
2. May delegate the responsibilities and authorities described in this section, as appropriate.

M. Contracting Officer's Representative (COR)

Establish and manage contracts for speeches, presentations, papers, and journal articles.

N. NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles, Publications Branch, Division of Administrative Services, ADM

1. Receives and logs all requests for publication (i.e., NRC Form 390) for the Publications Branch, Division of Administrative Services, ADM.
2. Examines and charges appropriate publishing costs to their Government purchase card. This responsibility and authority has been delegated from the Controller, DOC, OCFO.

IV. APPLICABILITY

- A.** This directive and handbook apply to all NRC staff in offices reporting to OEDO and all NRC contractor staff, who must also comply with the terms of their contract.
- B.** This directive and handbook do not apply to NRC Commissioners, NRC boards, advisory committees, or offices reporting directly to the Commission.
- C.** This directive and handbook do not apply to—
 1. Presentations at routine NRC staff meetings, or

2. Presentations at planned, formal encounters between one or more NRC employees and one or more outside persons with the expressed intent of discussing substantive issues directly associated with NRC's regulatory responsibilities.

V. HANDBOOK

Handbook 3.9 to this directive provides procedures for preparing, approving, recording, and disclosing speeches, presentations, papers, and journal articles on regulatory and technical subjects for presentation at meetings or symposiums, or for publication in journals.

VI. REFERENCES

Code of Federal Regulations

Federal Acquisition Regulation, Subpart 27.4.

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

10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding."

32 CFR Part 2002, "Controlled Unclassified Information."

Federal Register

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

Nuclear Regulatory Commission Documents

ADAMS Template ADM-039, "NRC Staff and Contractor Speeches, Papers, and Journal Articles on Regulatory and Technical Subjects," Accession No. ML060610180.

OEDO Procedure – 0310, Notes to Commissioners' Assistants, August 2006 ([ML062300196](#)).

OEDO Procedure – 0350, NRC Daily Notes and One-Week Look Ahead - Revision 4, November 1, 2010 ([ML102930506](#)).

OEDO Procedure – 0350, Document Supplement, New Daily Notes Process, January 2010, available at <http://www.internal.nrc.gov/oedo/procedures-guidance/DailyNotesWebStep-by-Step5-10.pdf>.

U.S. Nuclear Regulatory Commission Travel Charge Card Management Plan, dated January 31, 2016, available at <http://www.internal.nrc.gov/travel/TravelMgtPlan-2016.pdf>.

U.S. Nuclear Regulatory Commission Travel Charge Cardholder's Guide, dated March 31, 2014, available at <http://www.internal.nrc.gov/travel/CardHoldersGuide.pdf>.

Management Directives—

- 3.4, “Release of Information to the Public.”
- 3.7, “NUREG-Series Publications.”
- 5.5, “Public Affairs Program.”
- 10.159, “NRC Differing Professional Opinion Program.”
- 11.1, “NRC Acquisition of Supplies and Services.”
- 11.7, “NRC Procedures for Placement and Monitoring of Work with the U.S. Department of Energy (DOE).”
- 12.2, “NRC Classified Information Security Program.”
- 12.5, “NRC Cybersecurity Program.”
- 12.6, “NRC Sensitive Unclassified Information Security Program.”
- 12.7, “NRC Safeguards Information Security Program.”

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

NUREG/BR-0229, Revision 1, “The Nuclear Regulatory Commission’s Procedures for the Use of the U.S. Government Purchase Card,” September 2002.

Web Sites—

ADM Procedures on the Publication of a Staff Paper or Journal Article:
http://www.internal.nrc.gov/ADM/manuscriptdev_print/manudev_print.html.

EDO Procedures and Guidance Web Site:
<http://www.internal.nrc.gov/oedo/procedures-guidance/index.html>.

United States Code

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

Copyrights (17 U.S.C. 101 et seq.).

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- Update organizational titles and responsibilities,
- Update title of NRC Project Manager to Contracting Officer’s Representative to accurately reflect current practices,
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I. INTRODUCTION

A. Approval for Release to Publish

1. The office director or regional administrator (or designee) determines if a speech, presentation, paper, or journal article delivered in a domestic or international setting should be (1) published (i.e., require approval to publish) and (2) submitted as an NRC daily note or one-week look ahead item.
2. Sections II and III of this handbook present the procedures to certify compliance with agencywide notification and publication requirements, including technical and policy reviews, copyrighted material, patent clearance, reference availability, metric unit conversion, and information security requirements (see MD 12.2, “NRC Classified Information Security Program”; MD 12.5, “NRC Cybersecurity Program”; MD 12.6, “NRC Sensitive Unclassified Information Security Program”; NRC Yellow Announcement YA-05-0077, “Policy Revision: NRC Policy and Procedures for Handling, Marking, and Protecting Sensitive Unclassified Non-Safeguards Information (SUNSI),” October 26, 2005 ([ML051220278](#)); and MD 12.7, “NRC Safeguards Information Security Program”).

B. Notification Through a Daily Note or One-Week Look Ahead

Office of the Executive Director for Operations (OEDO) Procedure 0350, Rev. 4, “NRC Daily Notes and One-Week Look Ahead,” provides the notification procedures for “a summary of significant daily and near-term activities.” Speeches, presentations, papers, or journal articles requiring approval for release to publish may be required to be

included in the significant activities. Examples can be found in OEDO Procedure 0350, Rev. 4, Section 3.3(2), and its Appendices A and B.

II. PROCEDURES FOR PREPARING NRC STAFF SPEECHES, PRESENTATIONS, PAPERS, AND JOURNAL ARTICLES

A. Procedures for the Authors that are not Contractors

Following consultation with the direct supervisor to determine applicability, take the following steps to prepare, review, authorize, and disclose speeches, presentations, papers, and journal articles:

1. Preparation

- (a) Prepare the speech, presentation, paper (or abstract), presentation materials (including handouts), 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.
- (b) Place the document in the Agencywide Documents Access and Management System (ADAMS) as required in Section II.A.5 of this handbook.

2. Review

- (a) Obtain required technical and policy reviews to ensure that the material does not contain classified, sensitive unclassified, or nonpublic information.
- (b) Complete and obtain appropriate authorization signatures on NRC Form 390, "Release to Publish Unclassified NRC Staff Speeches, Presentations, Papers, and Journal Articles" (accessible through the NRC Forms Library in SharePoint).
- (c) Submit NRC Form 390 to allow the office director or regional administrator (or designee) 15 calendar days to review and authorize the publication or presentation. The authorizing official from the originating office signs NRC Form 390 to release for publication.

3. Page Charges

- (a) If there are page charges, indicate the estimated number of pages and cost per page on NRC Form 390.
- (b) Inform the publisher to send the invoice for payment of page charges to the NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles, Office of Administration (ADM). To obtain the mailing address, contact the

coordinator listed on the ADM Web site at
http://www.internal.nrc.gov/ADM/manuscriptdev_print/manudev_print.html.

- (c) The charges will be paid by the NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles, ADM, provided that the speech, presentation, paper, or journal article has been approved by the appropriate authorizing official on NRC Form 390.

4. Forwarding

- (a) Forward speeches, papers, or presentation materials (including handouts), to the office director, regional administrator, or designee for review and approval if—
 - (i) The materials are to be presented at a formal bilateral meeting at NRC; or
 - (ii) The materials are to be presented at an executive branch interagency bilateral meeting.
- (b) If the presentation material will be presented at a formal bilateral meeting at NRC, once the approval of the office director, regional administrator, or designee is obtained, then forward the presentation material to the appropriate Office of International Programs (OIP) desk officer 1 week prior to the formal bilateral meeting. OIP notification is in addition to the disclosure requirements below in Section II.A.5 of this handbook.

5. Disclosure Requirements

- (a) Place the presentation material in ADAMS as required by Template ADM-039 and OEDO Procedure 0350, "NRC Daily Notes and One-Week Look Ahead," Section 3.3(2). Follow special instructions in the template for the document date, title, and date of release.
- (b) NRC Form 390 authorizes the reprint and page charges (if applicable) of the journal article or paper. (See Section IV of this handbook for the definition of "Public Availability.")
- (c) If a journal article or paper is to be published by a commercial publisher, place the preprint (draft) in ADAMS using Template ADM-039 and ensure that the following caveats are placed on the first page of the preprint. Because extensive changes and/or edits may result during peer review by the commercial publisher, ensure that the preprint remains nonpublicly available in ADAMS.

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

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 and concurrence from the Office of Public Affairs.

- (d) When the journal article or paper is published by a commercial publisher, place a reprint in ADAMS using Template ADM-039 and ensure that proper identification and any copyright notices, if applicable, are in place (see Section II.A.6 of this handbook). Send a copy of NRC Form 390 to the NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles, ADM. Be sure to include the following:
- (i) ADAMS accession number, and
 - (ii) Date that the reprint will be released to the public.

6. Copyright Provisions and Exclusions

- (a) 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 official 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 was prepared by a Government official or employee as part of his or her official duties and is not copyrightable. A sample letter is provided as Exhibit 1 in this handbook.
- (b) NRC employees may, under certain circumstances, secure copyrights in their private writings prepared during their own time. This possibility was recognized by a U.S. House of Representatives report on the copyright law that stated: “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.” H.R. Rep. No. 94-1476 (1976).
- (c) If there are doubts on this issue, 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 regulations.

- (d) If the private writing relates to NRC functions, add the following note—

This speech, paper (or abstract), or journal article was prepared, in part, by an employee or employees of the U.S. 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.

- (e) A copyright in a written work is not invalidated simply because the written work was presented orally by the author at a public gathering.
- (f) 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 standards of conduct regulations prohibits employees from receiving any compensation for any outside teaching, speaking, or writing that relates to the employee's official duties.

7. Submittal to ADM

- (a) After approval is received from the office director, regional administrator, or designee, submit NRC Form 390 to the NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles, ADM, for recordkeeping of reviews and approvals.
- (b) Ensure that the ADAMS accession number is on the form. Do not include a copy of the publication. ADM will view it in ADAMS if necessary.
- (c) If there are page charges and the employee receives the invoice, forward the invoice to the NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles, ADM. The coordinator will process the payment. Allow 5 calendar days for the coordinator to update the log.

B. Procedures for Office Directors and Regional Administrators

Office directors and regional administrators will take the following steps to prepare, review, authorize, and disclose NRC staff speeches, presentations, papers (or abstracts), presentation materials (including handouts), and journal articles (presentation material):

1. Office directors and regional administrators may delegate, as far down as to the branch chief, the responsibilities and authorities described in this section, as appropriate.

2. Inform the Executive Director for Operations (EDO) of their accepted speaking engagements, including appearances as panel members, even when no prepared remarks are required.
3. Forward their own speeches, presentations, papers (or abstracts), presentation materials, including handouts, and journal articles to the EDO for appropriate review.
4. Review and approve the presentation material that NRC staff plan to present—
 - (a) While on foreign travel,
 - (b) At a formal bilateral meeting at NRC,
 - (c) At an executive branch interagency bilateral meeting, or
 - (d) As required by OEDO Procedure 0350, Section 3.2.
5. If appropriate, inform the Office of Public Affairs (OPA) of proposed presentation material to assess possible interest by news media and the general public. Contact OPA for additional guidance.
6. If the presentation material, either technical or nontechnical, describes or interprets significant agencywide policy issues—
 - (a) Obtain reviews by the directors or other appropriate management representatives of other organizations if the functions of other offices are involved and inform OPA.
 - (b) Follow OEDO Procedure 0350 to submit an NRC daily note.
 - (c) Provide OGC with a courtesy copy of the NRC daily note for the following:
 - (i) Requests for participation in foreign meetings, and
 - (ii) Papers presented at international meetings.
 - (d) If the policy issue discussed is published NRC policy, review and authorize these documents for presentation and publication.
7. Ensure that NRC Form 390 is prepared and signed for the presentation material to signify that all necessary reviews have been made and that authorization for presentation and publication has been granted. The signature on NRC Form 390 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, presentation, paper, or journal article.

8. In the event the author's disagreement with the result of the review cannot be resolved, direct the author to the available procedures in MD 10.159, "NRC Differing Professional Opinion Program."
9. In any case, ensure disposition of the review request before the scheduled time of the presentation or publication and not more than 15 calendar days after the author's request.

III. GUIDELINES FOR PREPARING NRC CONTRACTOR SPEECHES, PRESENTATIONS, PAPERS, AND JOURNAL ARTICLES

A. Procedures for the NRC Contracting Officer's Representative (COR)

Use the following guidelines in determining whether reporting by means of speeches, presentations, papers, and journal articles will be authorized and whether press or other media releases will be approved.

1. Authorization in Statement of Work

- (a) 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 to publish in the open literature by means of papers and journal articles. If publishing in the open literature is to be authorized in lieu of submitting formal reports, include the following in the contract or statement of work:

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.

- (b) Include the following in the statement of work for review before presentation or submission for publication of speeches, presentations, papers, and journal articles:

The contractor's investigator(s) may publish the results of this work in the open literature instead of submitting a final report or may present papers at public or association meetings at interim stages of the work if the article or paper has been reviewed by the NRC Contracting Officer's Representative (COR) in draft form and agreement has been reached on the content. Submit the work in final form to the COR, accompanied by NRC Form 390A, "Release to Publish Unclassified NRC Contractor Speeches, Presentations, Papers, and Journal Articles."

If agreement on the content has not been reached, NRC may also require 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/or presentation of papers.

- (c) In the latter case, NRC will inform the contractor of the decision in the same manner as for reports. (For specifics on overseeing publication of a contractor report, see MD 3.7, "NUREG-Series Publications," Section V, "Procedures for Manuscripts Prepared by a Contractor, a Grantee, or Other Holder of an NRC Contract, Grant, or Memorandum of Understanding.") 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 Contracting Officer's Representative (COR) or a higher level of authority may be appealed. See Section III.J.6 of this directive.
- (d) NRC CORs and contractor officials who are authorized to sign NRC Form 390A, "Release to Publish Unclassified NRC Contractor Speeches, Presentations, Papers, and Journal Articles" (accessible through the NRC Forms Library in SharePoint), jointly certify that the contractor speeches, presentations, papers, or journal articles are authorized by the contractor and 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 material, Safeguards Information, sensitive unclassified non-safeguards information, or nonpublic information.
- (e) Place the following disclaimer on all published papers and articles. Also include the special provisions in the contract as described in Section III.A.7(d), "Disclosure Requirements," of this handbook.

This report was prepared as an account of work sponsored by an agency of the U.S. Government. Neither the U.S. 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.

- (f) If the contractor proposes to publish in the open literature or present the information at meetings in addition to submitting the required technical reports, approve the material as submitted, approve it subject to NRC-suggested revisions, or disapprove it. In any event, an NRC COR 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.
- (g) Where possible, contract documents should specify if publication in the open literature is permitted. If the contractor requests permission to publish in the open literature, even though the contract does not explicitly provide for this type of publication, the NRC COR (through the contracting officer) may determine whether the contract should be modified to allow for such publication.
- (h) Presentation or publication in the open literature of papers or data based on reports already approved by NRC as formal final reports, such as NUREGs, does not require NRC approval.

2. Page Charges

Recommend payment of page charges in invoices only if the page charges are authorized by the contract. Consult Section IV of this handbook under the definition of "Journal" for Federal policy on page charges.

3. Travel Costs

- (a) If presentation of a paper at a public association meeting has been authorized in the statement of work, recommend payment of travel costs in contractor invoices only if the travel costs are authorized by the contract. If the NRC COR 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.
- (b) If the presentation or paper is in addition to the required technical reports and the NRC COR determines that it will benefit the NRC project, recommend payment of travel and the publishing costs, if any, only if authorized by the contract. If the NRC COR determines that the article or presentation would not benefit the NRC project, specify that costs associated with the presentation or publication will be borne by the contractor.

4. Patent Classification and Commercial Proprietary Rights

Publications and presentations made publicly available may not include information that would compromise national security, patent rights, copyrights, or commercial

proprietary rights, nor include nonpublic NRC information. Consult OGC and the Information Security Section, Division of Nuclear Security, Office of Nuclear Security and Incident Response, as needed, in making decisions.

5. Contractor Request for Review

The contractor must request NRC review of papers and journal articles on technical and regulatory issues for possible policy implications before completion of NRC Form 390A. 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.

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

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 3.7, "NUREG-Series Publications," or MD 11.7, "NRC Procedures for Placement and Monitoring of Work with the U.S. Department of Energy (DOE)," are applicable.

7. Disclosure Requirements

- (a) All papers authorized for presentation as speeches and/or for submission for publication in transactions, proceedings, or journals must be transmitted with a completed NRC Form 390A to the NRC COR. Upon receipt, decide if the paper will be placed in ADAMS using Template ADM-039. Indicate on the NRC Form 390A whether or not the paper was placed in ADAMS, co-sign the form, and send the form to ADM (NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles) for recordkeeping of reviews and approvals. (See Section IV of this handbook for the definition of public availability.)
- (b) If the NRC COR decides to enter into ADAMS a preprint (draft) of a journal article or paper that is being submitted to a commercial publisher, the preprint must be marked nonpublicly available because extensive changes and/or edits may result during peer review by the commercial publisher and should contain the appropriate caveats. When a journal article or paper is published by a commercial publisher, the contractor will send a reprint to the NRC COR. If deemed appropriate, the NRC COR will place the reprint in ADAMS using Template ADM-039 and ensure that proper identification and any copyright

notices, if applicable, are in place. NRC Form 390 authorizes the reprint of the journal article or paper. Send a copy of NRC Form 390 to the NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles, ADM. Be sure to include the following:

- (i) ADAMS accession number, and
- (ii) Date that the reprint will be released to the public.
- (c) All published papers and articles must include the disclaimer in Section III.A.1(e) of this handbook.
- (d) Also include the above-referenced disclaimer in the special provisions (Section H) of the contract.

8. Copyright Provisions and Exclusion

- (a) When drafting the contract or during negotiations, consideration should be given to adding language to the special provisions (Section H) of the contract. Section H specifies whether work resulting from the contract can be copyrighted based on advice from OGC and the contracting officer (CO).
- (b) The copyright of a document written by an NRC contractor is governed by the following:
 - (i) The contract,
 - (ii) Interagency agreement,
 - (iii) Federal contract and copyright law, and
 - (iv) The standards of conduct regulations (5 CFR Part 2635).
- (c) A contractor may assert copyright in data first produced during the performance of a given federal government contract/order in accordance with applicable Rights in Data clause(s) in that contract/order. If a request for transfer of a copyright is received, coordinate with OGC to answer the publisher in writing by using the sample letter in Exhibit 2 of this handbook.

9. Rights to Data

All contracts that require data to be produced, furnished, acquired, or specifically used in meeting contract performance requirements must contain terms that describe the respective rights and obligations of the Government and the contractor regarding the use, duplication, and disclosure of this data. If there are questions concerning

policy on the Government's need and a contractor's legitimate proprietary interest in the data, consult OGC and the contracting officer.

10. Press or Other Media Releases

- (a) A contractor may request permission to issue a press or other media release on the work being done. The request must be made only by an authorized representative of the contractor. The authorized representative of the contractor must submit the request in writing to the applicable NRC COR and the applicable NRC CO. The NRC COR or CO should also consult with OPA for their input on this matter. The contractor may only issue a press or other media release relating to its NRC contract/order with prior written permission from the CO.
- (b) Decisions not to release information or delays in handling by the NRC COR may be appealed. See Section III.J.6 of this directive.
 - (i) The NRC office director or regional administrator will review appeals signed by their designee.
 - (ii) The EDO will adjudicate any other appeals.

B. Procedures for NRC Contractor Authors

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

1. Prepare the speech, presentation, paper, or journal article in accordance with the terms and conditions of the applicable contract/order that contracted for those services.
2. Obtain required reviews and appropriate signature on NRC Form 390A. Send a copy of the speech, presentation, paper, or journal article and a completed signed NRC Form 390A to the designated COR for the applicable contract/order that contracted for those services.
3. If the paper or journal article is to be published in a copyrighted journal, clearly indicate the following information on the first page of the copy submitted with an NRC Form 390A:

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

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 NRC Contracting Officer or Contracting Officer's Representative and concurrence from the Office of Public Affairs.

4. If requested by the journal or other publisher to transfer the copyright, respond to the journal or other publisher in writing using the format of the sample letter in Exhibit 2.
5. Contact the COR for the applicable contract/order if technical direction is needed in completing these steps.

IV. GLOSSARY

Abstract

A formal written summary of a speech or paper for publication in transactions or proceedings following peer review and acceptance by the conference sponsors.

ADAMS

The Agencywide Documents Access and Management System (ADAMS) is an electronic document management system that maintains NRC's unclassified official program and administrative records in a centralized electronic document repository related to NRC's licensing, research, and rulemaking activities. The subset of agency records that are publicly available are stored in public libraries accessible via the agency's Web site. From NRC's Web site, the public can access the ADAMS Public Libraries. ADAMS permits full text and profile searching and provides the ability to view documents and images, download files, and print locally.

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 or related confirmatory research. 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

An organization 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.

Contracting Officer's Representative (COR)

The NRC individual delegated and authorized in writing by the contracting office responsible for the performance of a consultant, a contractor, or a subcontractor, or for work performed under an interagency agreement.

Contractor

For the purposes of this directive, the term "contractor" includes individuals or organizations performing work under contracts or interagency agreements for the NRC.

Disclosure Requirements

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

Formal Bilateral Meeting

A formal meeting at NRC with a high-level delegation from another country where the schedule includes meeting with NRC senior managers. These senior managers generally would be at the level of office director or above.

Journal

The publication of a technical and professional society that accepts 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 to NRC to publish the work. 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 *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 of the publication is administered impartially for Government and non-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.

Meeting

See “conference.”

NRC Coordinator for Speeches, Presentations, Papers, and Journal Articles

The NRC individual authorized to pay for appropriate charges associated with the publishing of speeches, presentations, papers, and journal articles with a government purchase card.

Open Literature

The formal forum for scientific discussion composed of peer-reviewed publications—including books, journal articles, and conference proceedings.

Page Charges

The cost to NRC to publish abstracts, summaries, or completed papers in transactions, proceedings, and journals by professional societies are typically charged on a “per page” basis. Payment of the page charges usually includes 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 ADAMS.

Presentation

An event to present or explain a topic to an audience or the public in general while representing the agency.

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 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, presentations, papers, and journal articles that do not contain classified, sensitive unclassified, or non-public information are to be made publicly available, that is, they must be available in ADAMS through the Electronic Reading Room, or in the form of a report or conference proceedings available at the Government Printing Office (GPO) and the National Technical Information Service, 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, only the final reprint will be placed in ADAMS for public availability.

Speech

The oral presentation of a paper.

Symposium

See "conference."

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.

EXHIBITS

Exhibit 1 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 "U.S. Government work." As it was written as a part of my (our) official duties, 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 2 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 of the U.S. Government under contract 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 that 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,