

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

MD 7.3	PARTICIPATION IN PROFESSIONAL ORGANIZATIONS	DT-17-147
<i>Volume 7:</i>	Legal and Ethical Guidelines	
<i>Approved By:</i>	Stephen G. Burns, Chairman	
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<i>Issuing Office:</i>	Office of the General Counsel	
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EXECUTIVE SUMMARY		
<p>Management Directive 7.3, “Participation in Professional Organizations,” clarifies current NRC policy on employee participation in professional organizations, updates the authority of NRC regional counsels to serve as deputy ethics counselors upon designation by the Designated Agency Ethics Official, updates legal references and requirements, and incorporates guidance on the use of social media.</p>		

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I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission to encourage employee participation in outside professional organizations because of the benefits to the agency through the enhancement of the skills of employees, the expansion of immediate and long-term knowledge and expertise, the exchange of programmatic information, and the engagement in projects and programs complementing NRC activities. However, employees must avoid any association or activity with a professional organization that could create a conflict of interest or an appearance of a conflict of interest with their NRC employment.

II. OBJECTIVES

- Assist in and keep abreast of significant developments in the advancement of science, technology, industry, management, and the law.
- Help create a working atmosphere in the NRC designed to attract and retain competent professional and technical personnel, and to improve the work of the NRC.
- Maintain and increase the professional stature and proficiency of NRC professional and technical employees through their participation in the work of professional organizations related to the NRC’s mission.
- Encourage and ensure suitably qualified and appropriate official representation of the NRC to professional organizations.
- Ensure that employee participation in a professional organization is in accord with ethics laws and regulations.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Chairman

Designates the head of an office reporting directly to the Chairman to serve as an authorized NRC representative to a professional organization. This authority may be delegated.

B. Inspector General (IG)

Designates IG staff and others reporting to the IG to serve as authorized representatives of the Office of the Inspector General to professional organizations.

C. The Commission

Designates the head of an office reporting directly to the Commission to serve as an authorized NRC representative to a professional organization. This authority may be delegated.

D. Directors, Offices Reporting to the Commission

Designates employees in their respective offices to serve as authorized NRC representatives to professional organizations. This authority may be delegated.

E. Executive Director for Operations (EDO)

Designates the head of an office reporting to the Commission through the EDO, a deputy EDO, or a regional administrator to serve as an authorized NRC representative to a professional organization. This authority may be delegated.

F. Office Directors Reporting to the EDO and Regional Administrators

1. Maintain a work environment that will encourage and permit employee participation in professional organizations.
2. Designate or nominate employees in their respective offices or regions to serve as authorized NRC representatives to professional organizations.

G. General Counsel

As the Designated Agency Ethics Official (DAEO) (see Management Directive (MD) 7.5, "Ethics Counseling and Training") and Counselor for the NRC, has the authority to designate employees in OGC and regional counsels as deputy ethics counselors.

H. Assistant General Counsel for Legal Counsel, Legislation, and Special Projects

Serves as the alternate DAEO.

I. Deputy Ethics Counselors (Headquarters) (Division of Legal Counsel, Legislation, and Special Projects, OGC)

Provide advice to employees and special Government employees on conflict of interest issues relating to participation in the activities of a professional organization.

J. Deputy Ethics Counselors (Regional Counsels)

Provide advice to regional employees on conflict of interest issues relating to participation in the activities of a professional association in coordination with headquarters deputy ethics counselors. Upon designation by the DAEO, serve as deputy ethics counselors.

K. Branch Chief or Equivalent

1. Approves use of duty time for an employee's attendance at a meeting of a professional organization, other than as an authorized NRC representative (see Sections I.B.2 and I.B.3 of this handbook).
2. Approves, in writing, the use of duty time for administering the internal affairs of a professional organization pursuant to Sections I.B.2 and I.B.3 of this handbook.
3. Ensures that speeches, presentations, papers, and journal articles prepared by NRC employees in their official capacity for presentation before, or publication by, a professional organization are reviewed by the appropriate level of NRC management, in accordance with MD 3.9, "NRC Staff and Contractor Speeches, Presentations, Papers, and Journal Articles on Regulatory and Technical Subjects."
4. Forwards, to the appropriate office director or regional administrator, any employee requests to serve as an authorized NRC representative to a professional organization.

IV. DEFINITIONS

Authorized NRC Representative

An NRC employee specifically selected to represent the agency to a professional organization. Participation in professional organizations includes attendance at meetings, official representation of the NRC to professional organizations, publication of journal articles, and participation in a private capacity in the activities of professional organizations.

Employee

An NRC employee, a special Government employee (unless otherwise indicated), or an employee of another Government agency assigned or detailed to the NRC for more than 30 days.

Meetings

Conferences, seminars, workshops, symposiums, speaking engagements, and similar sessions related to the NRC mission or activities that will contribute to improved conduct, supervision, or management of NRC functions or activities.

Professional Organization

A nonprofit, cooperative, voluntary organization of individuals having a common background in a professional, technical, scientific, or managerial field of work, requiring knowledge and skills normally acquired only after extensive training or education. The term includes State and local government-sponsored organizations of that character. It also includes voluntary standards bodies which plan, develop, establish, or coordinate voluntary standards (pursuant to Office of Management and Budget Circular A-119). The term does not include organizations that are social, philanthropic, fraternal, religious, political, or composed of national governments, such as the International Atomic Energy Agency or the Nuclear Energy Agency.

Special Government Employee

An NRC employee who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis. The term includes NRC consultants, experts, and members of advisory committees.

V. APPLICABILITY

The policy and guidance in this directive and handbook apply to all NRC employees.

VI. DIRECTIVE HANDBOOK

Handbook 7.3 contains detailed guidance regarding employee participation with a professional organization. This includes guidance on serving as an authorized NRC representative, attending meetings, using official time or excused absence to attend meetings, accepting payment for travel expenses and honoraria, and paying membership fees.

VII. REFERENCES

Code of Federal Regulations

5 CFR Part 410, Subpart E, "Accepting Contributions, Awards, and Payments From Non-Government Organizations."

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

5 CFR Part 2636, "Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees."

Nuclear Regulatory Commission Documents

Management Directive—

2.7, “Personal Use of Information Technology.”

3.9, “NRC Staff and Contractor Speeches, Presentations, Papers, and Journal Articles on Regulatory and Technical Subjects.”

7.5, “Ethics Counseling and Training.”

7.8, “Outside Employment.”

7.9, “Ethics Approvals and Waivers.”

10.62, “Leave Administration.”

14.1, “Official Temporary Duty Travel.”

NRC Ethics Web Site:

<http://drupal.nrc.gov/ogc/nrc-ethics>.

Office of Government Ethics Legal Advisory, LA-15-03, “The Standards of Conduct as Applied to Personal Social Media Use,” April 9, 2015, available at [https://www2.oge.gov/Web/OGEL.nsf/0/16D5B5EB7E5DE11A85257E96005FBF13/\\$FILE/LA-15-03-2.pdf](https://www2.oge.gov/Web/OGEL.nsf/0/16D5B5EB7E5DE11A85257E96005FBF13/$FILE/LA-15-03-2.pdf).

Office of Management and Budget Circular A-119, “Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,” February 10, 1998.

United States Code

Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government (18 U.S.C. 205).

Acts Affecting a Personal Financial Interest (18 U.S.C. 208).

Compensation to Members of Congress, Officers, and Others in Matters Affecting the Government (18 U.S.C. 203).

Exemption From Tax on Corporations, Certain Trusts, etc. (26 U.S.C. 501(c)(3)).

Expenses of Training (5 U.S.C. 4109).

Lobbying With Appropriated Moneys (18 U.S.C. 1913).

Membership Fees; Expenses of Attendance at Meetings; Limitations (5 U.S.C. 5946).

Salary of Government Officials and Employees Payable Only by United States (18 U.S.C. 209).

U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)

DH 7.3

PARTICIPATION IN PROFESSIONAL ORGANIZATIONS

DT-17-147

Volume 7: Legal and Ethical Guidelines

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I. GUIDANCE FOR PARTICIPATION IN PROFESSIONAL ORGANIZATIONS

A. Conflict of Interest

1. U.S. Nuclear Regulatory Commission employees involved with a professional organization must comply with all ethics statutes and regulations, including the Governmentwide standards of ethical conduct regulations (Title 5 of the *Code of Federal Regulations* (CFR) Part 2635) and the criminal code (18 U.S.C. 201-209). Employees should seek advice from their supervisor or an ethics counselor before engaging in any activity with a professional organization that might violate ethics requirements. Employees also must comply with time and attendance policies.
2. The following ethics laws and regulations are of particular relevance with respect to professional organizations.

(a) Criminal Laws

(i) Conflicting Financial Interests

An employee who is an officer, director, trustee, or employee of a professional organization or any other private entity are prohibited from personally and substantially participating in a particular Government matter that could directly and predictably affect the financial interests of that entity, unless the employee receives a written waiver (18 U.S.C. 208, Management Directive (MD) 7.9, "Ethics Approvals and Waivers").

(ii) Representational Ban

An employee is prohibited from representing, in his or her private capacity, a professional organization or any other private entity before any Federal agency or court in connection with a particular matter in which the United States is a party or has a direct and substantial interest. This prohibition includes Government generic rulemakings and legislation as well as contracts, licenses, grants, applications, and permits. It applies even if the employee receives no compensation (18 U.S.C. 205). In addition, an employee cannot receive any compensation for representational services made by someone else to a Federal agency or court (18 U.S.C. 203).

(iii) Supplementation of Salary Ban

An employee is prohibited from accepting a fee or any other compensation from a professional organization or any other private party for any services that are part of his or her official Government duties (18 U.S.C. 209). The agency may permit an employee on official duty to accept travel expenses from certain nonprofit organizations (see Section I.D.2 of this handbook).

(iv) Lobbying with Appropriated Funds

An employee is prohibited from using funds appropriated by law for grassroots lobbying activity of Congress on legislation (18 U.S.C. 1913).

(b) Standards of Conduct Regulations

(i) Gift Restrictions

An NRC employee must not accept a gift from a prohibited source unless allowed under the standards of conduct regulations. An employee also must not accept a gift from a non-Federal source if offered because of the employee's official position. A **prohibited source** is any person who has or is seeking to obtain contractual or other business or financial relations with the NRC; conducts operations or activities regulated by the NRC; is an applicant for an NRC license; has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; or is an organization with a majority of members who meet any of the above (5 CFR Part 2635, Subpart B).

(ii) Fundraising

An employee is prohibited from personally soliciting funds for a professional organization or any other non-Federal entity, from a subordinate employee, or from anyone the employee knows is a prohibited source (5 CFR 2635.808). This does not include the sharing of general fundraising solicitations through social media provided the employee does not specifically reference, link to, or otherwise target the subordinate or known prohibited source.

(iii) Impartiality in Performing Duties

An employee who is actively involved with a professional organization or any other private entity (other than as an officer, director, trustee, or employee, scenarios that are addressed above in Section I.A.2(a)(i)) is prohibited from participating in any particular Government matter involving specific parties that the employee knows is likely to directly and predictably affect the financial interest of that entity if a reasonable person with the relevant facts would question the employee's impartiality. A waiver to this prohibition can be granted (5 CFR 2635.502, MD 7.9).

(iv) Misuse of Government Property

An employee is prohibited from using any Government property or other resources, such as telephones, photocopiers, or computers, in connection with any activity of a professional organization or for any other nonofficial purpose unless—

- Such use is authorized in accordance with 5 CFR 2635.704-.705; or
- Such use is in accordance with MD 2.7, “Personal Use of Information Technology.”

(v) Misuse of Position

An employee is prohibited from using his or her Government office or his or her title to benefit or favor, or to appear to be benefiting or favoring, a professional organization or another private entity or to imply that the agency sanctions or endorses the employee’s activities. In addition, while on official duty, an employee cannot participate in any activity of a professional organization or any other private entity that is principally for that entity’s financial or promotional benefit (5 CFR 2635.702).

(vi) Nondisclosure of Nonpublic Information

An employee is prohibited from using or disclosing any Government information that is not readily available to the public in connection with a professional organization, or for any other nonofficial purpose, without authorization (5 CFR 2635.703).

(vii) Outside Teaching, Speaking, or Writing

An employee is prohibited from accepting any compensation from a professional organization or any other private entity for any outside teaching, speaking, or writing that relates to his or her official duties. This prohibition includes an activity that deals in significant part with any matter currently assigned, or previously assigned within the past year, to the employee, or any ongoing or announced policy, program, or operation of the agency (5 CFR 2635.807). (An employee should consult a deputy ethics counselor before accepting any compensation from a non-Federal source for a private appearance, speech, or article.)

B. Participation in Professional Organizations

1. Participation as an Authorized NRC Representative

- (a) NRC may designate or nominate an employee as an authorized NRC representative to a professional organization, including a voluntary standards
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body, when a significant agency interest would be served. Service as the authorized NRC representative does not connote agency agreement with, or endorsement of, decisions or activities of the organization. The designated employee shall attend meetings of the organization in duty status and may be reimbursed by the NRC for travel expenses incurred in connection with this attendance.

- (b) An employee who is an authorized NRC representative to a professional organization shall not take any action as an NRC employee that could directly and predictably affect the financial interests of that organization or members of that organization. The employee shall refrain from participating in decisions affecting the organization's financial affairs.
 - (c) To qualify for designation as the authorized NRC representative to an organization, the employee should be familiar with NRC policies in matters most likely to be considered by the organization.
 - (d) An NRC employee who receives a request from an organization to serve as an agency representative shall refer the request to his or her branch chief or equivalent, who shall forward it with a recommendation for approval or disapproval to the appropriate office director or regional administrator for final determination.
2. Participation on Official Duty
- (a) An NRC employee's branch chief, or equivalent level management, may authorize an employee to attend a meeting of a professional organization while on official duty if the agency can derive a benefit from the employee's attendance and the primary purpose of the activity meets at least one of the following objectives:
 - (i) Acquire information to enhance the performance of the employee's official duties or contribute to the improved conduct of the employee's assigned functions
 - (ii) Contribute to scientific or professional knowledge or expertise in fields related to NRC's work or functions
 - (iii) Foster resolution of mutual problems of the Federal Government and other governmental, industrial, or professional entities that would benefit NRC's mission
 - (b) The NRC can pay travel expenses incurred in connection with this attendance, or authorize payment of these expenses by a nonprofit entity, provided the requirements of Section I.D.2 of this handbook are met.
 - (c) The branch chief, or equivalent, may authorize, a subordinate employee to use a limited amount of duty time to administer the internal affairs of a professional

organization if there will be a benefit to the agency and it meets any of the objectives listed in item (a) above, after giving due consideration to the workload in the office and the estimated amount of time that would be devoted to this activity. The authorization must be in writing to be effective, and it must be renewed in writing at least annually.

3. Participation in a Private Capacity

NRC encourages employees to participate in a private capacity in the activities of professional organizations. It is the employee's responsibility to make clear that the views expressed by the employee in the course of participation are not necessarily those of the NRC and to avoid the appearance that the employee's personal activity is sanctioned or endorsed by the U.S. Government. This includes activities or statements made by an employee through a personal social media account. Simply identifying one's official title or position in an area of the personal media account designated for biographical information will ordinarily not, by itself, create such an appearance. However, other circumstances involving the use of social media could lead a reasonable person to conclude that the Government sanctions or endorses an employee's statements or activities. These include employee statements or representations regarding governmental support, use of the agency name or seal, or use of the employee's title or position in areas other than those designated for biographical information and the employee's position when highly visible. Where confusion or doubt is likely to arise, an employee is encouraged to include a disclaimer clarifying that his or her social media communications reflect only his or her personal views and do not necessarily represent the views of the agency or the United States. (See Office of Government Ethics Legal Advisory, LA-15-03, "The Standards of Conduct as Applied to Personal Social Media Use," April 9, 2015.)

4. Service as an Officer

An NRC employee who plans to assume a position as an officer of a professional organization is encouraged to consult with a deputy ethics counselor regarding any ethics requirements that may apply. The term "officer" includes a president, vice president, secretary, treasurer, trustee, member of a board of directors, ex-officio officer or director, and any other position with fiduciary duties. This term does not include the chair or co-chair of committees of a professional organization if that position does not have fiduciary duties.

C. Speeches, Presentations, Papers, or Journal Articles

1. All speeches, presentations, papers, or journal articles prepared by an employee for a professional organization that relate to NRC technical, legal, or policy issues should be reviewed in accordance with MD 3.9, "NRC Staff and Contractor Speeches, Presentations, Papers, and Journal Articles on Regulatory and Technical Subjects."

2. A supervisor may authorize an employee to use agency equipment or administrative support to prepare papers for presentation at conferences or other meetings of a professional organization or for publication in journals or other periodicals of a professional organization. However, an employee may not use NRC funds or resources to reproduce copies of papers for distribution to those attending a conference or meeting unless authorized by the employee's supervisor.

D. Travel Expenses

1. Personal Travel

An employee traveling in a private capacity may accept travel or related expenses, such as meals and lodging, from a professional organization or any other private party that is not a prohibited source, as defined in Section I.A.2(b)(i) of this handbook. An employee is prohibited from soliciting or recommending the solicitation of travel funds from any non-agency party, including professional organizations. An employee can only accept travel or related expenses from a prohibited source if it is approved in advance, in writing, in accordance with MD 7.8, "Outside Employment."

2. Travel on Official Duty

- (a) An employee attending a meeting of a professional organization while on official duty may be authorized in writing by the official approving the travel to accept travel or related expenses from the professional organization or another private sponsor (including a prohibited source) if all the following conditions are met:
 - (i) The expenses are not excessive and are incurred in connection with the employee's attendance at the meeting.
 - (ii) The party paying for the travel has been determined by the Secretary of the Treasury to be an organization described in Section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under Section 501(a) of the Code. (Information concerning the tax status of an entity can be obtained from a deputy ethics counselor in the Office of the General Counsel.)
 - (iii) The official approving the travel has determined that the payment of travel expenses—
 - Would not be a reward for services to the entity providing the benefits
 - Would not reflect unfavorably on the employee's ability to carry out his or her official duties in a fair and objective manner
 - Would not compromise the honesty and integrity of NRC programs or NRC employees and their official actions or decisions
 - Would be compatible with applicable ethics regulations
 - Would otherwise be proper and ethical for the employee

- (b) The NRC shall make appropriate deductions in the travel, *per diem*, and other allowances otherwise payable to an employee on official duty whose travel expenses are paid under this authority by a professional organization or other private party. General instructions and procedures concerning official travel are contained in MD 14.1, "Official Temporary Duty Travel."
- (c) The agency official authorizing an employee on official duty to accept travel expenses from a nonprofit entity under this authority shall retain a record of the written approval. It shall include the name of the employee and the organization paying for the travel, the amount and nature of the payment, and the purpose of the travel.

3. Reporting Requirements

Employees who are required to file a financial disclosure report (Office of Government Ethics Form 278e or 450) must disclose, on their report, the receipt of travel expenses of \$350 or more in value they, their spouse, or their minor child received from a single source other than the United States. This includes travel expenses paid while on official duty, except for official travel paid by the International Atomic Energy Agency (IAEA) (see MD 14.1 for additional rules applying to IAEA-funded travel). The report must provide the name and address of the source of the payment, dates, travel itineraries, and nature of the travel expenses.

E. Free Attendance

1. Speaker or Panelist

- (a) An employee serving on official duty as a speaker or panelist at a meeting or conference of a professional organization or another private entity may be authorized by his or her office director or regional administrator to accept an offer of free attendance from the sponsor of the event for the day of the employee's service as a speaker or panelist. On the other days of the meeting or conference, the NRC is to pay for the employee's meals, lodging, and related expenses, as well as a proportional share of the conference fee, unless the event can be considered a widely attended gathering (as described below in Section I.E.2 of this handbook) and the employee receives authorization to accept free attendance.
- (b) Free attendance includes waiver of the conference or other fee or the provision of food, refreshments, entertainment, instruction, and materials furnished to all in attendance at the event. It does not include travel expenses, lodging, entertainment collateral to the event, or meals taken other than in a group setting with others in attendance.

2. Widely Attended Gatherings

- (a) An employee may be authorized by his or her office director or regional administrator to accept free attendance at a meeting or conference that is a

widely attended gathering. This includes the days of a conference when the employee is not a speaker or panelist. An NRC employee subject to a leave system can attend the widely attended gathering on official time only if they are on approved leave or granted excused absence.

- (b) An event is widely attended if it is expected that a large number of persons will attend and that persons with a diversity of views or interests will be present. An example of a widely attended gathering is an event that is open to members from throughout a given industry or profession, or if those in attendance represent a range of persons interested in a given matter.
- (c) Before granting approval, the office director or regional administrator must determine that the employee's attendance is in the interest of the agency because it will further NRC programs or operations.
- (d) The policy and procedures for approving attendance at widely attended gatherings are contained in MD 7.9, "Ethics Approvals and Waivers." For more information on the policy and procedures for granting approved leave and excused absence, see MD 10.62, "Leave Administration."

F. Agency Support to Professional Organizations

The NRC may provide space in its buildings to a professional organization for meetings and the use of agency bulletin boards, internal agency mail distribution system, electronic bulletin boards, and other means of informing employees of meetings and other activities, in accordance with appropriate regulations of the General Services Administration and the Office of Personnel Management.

G. Membership Fees

The NRC will not reimburse an employee for fees and dues required for membership in outside organizations unless the membership fee is part of the cost of an employee's training and is a necessary cost directly related to the training itself or a condition precedent to undergoing the training (see 5 U.S.C. 5946, 4109(b)).

H. Government-Paid Postage

An NRC employee may not use Government-paid postage in connection with any activity of a professional organization unless specifically authorized by the employee's supervisor.