

United States
Nuclear Regulatory Commission



ACRS/ACNW Members' Handbook



Advisory Committee on Reactor Safeguards
Advisory Committee on Nuclear Waste

March 1996

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1 ADVISORY COMMITTEE ON REACTOR SAFEGUARDS AND ADVISORY COMMITTEE ON NUCLEAR WASTE

1.1 Background/Organization

Figure 1 depicts the organization of the Nuclear Regulatory Commission (NRC) including the Advisory Committee on Reactor Safeguards (ACRS) and the Advisory Committee on Nuclear Waste (ACNW). Paragraphs 1.1.1 and 1.1.2 describe the functions of the ACRS and ACNW respectively. Requirements applicable to the establishment, utilization, and termination of NRC Advisory Committees are contained in the Federal Advisory Committee Act (FACA) (Appendix A), the General Service Administration's Federal Advisory Committee Management regulations,¹ and NRC's Advisory Committee regulations, which are in 10 CFR Part 7, "Advisory Committees."²

1.1.1 Advisory Committee on Reactor Safeguards

The history of the ACRS dates back to late 1947 when the Atomic Energy Commission (AEC) formed the Reactor Safeguards Committee (RSC) to serve as an advisory body to its Division of Research. In late 1950 a related committee, the Industrial Committee on Reactor Location Problems (ICRLP), was formed to conduct an evaluation of the hazards associated with the operation of production facilities. In July 1953, these two Committees were combined and the new Committee was named the Advisory Committee on Reactor Safeguards.

A 1957 amendment to the Atomic Energy Act of 1954 established the ACRS as a statutory committee with functions assigned by statute. (Section 29 and 182b. of the Atomic Energy Act of 1954, as amended.³) With the enactment of the Energy Reorganization Act of 1974,⁴ the Committee was transferred intact from the AEC to the NRC. It is subject to Commission regulations set forth in 10 CFR

Part 7.⁵ The ACRS Charter is in Appendix B and the Bylaws are in Appendix C.

The Committee elects a Chairman and Vice-Chairman each year to carry out functions designated by the Committee. The term of office is for one year from January 1 to December 31, and either or both may be reelected to serve one additional consecutive one-year term.

The Committee reviews safety studies and facility license applications referred to it and makes reports thereon to the NRC, advises the NRC on the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards, and performs such other duties as the NRC may require. Upon request from the Department of Energy (DOE), the ACRS reviews and provides reports on U.S. Naval reactor designs, and also advises DOE with regard to the hazards of DOE nuclear activities and facilities. In addition, upon request, the ACRS provides technical advice to the DOE Defense Nuclear Facilities Safety Board. The ACRS, on its own initiative, may conduct reviews of specific generic matters or nuclear facility safety-related items. The ACRS is required to submit a report to Congress annually on NRC-sponsored reactor safety research.

In performing its activities, the ACRS evaluates such items as the suitability of proposed sites with respect to the effect the proposed plant may have on public health and safety, applications for proposed construction permits and operating licenses, and the effect of various features on the safety of nuclear plants. These include engineered safety features; plant security provisions and safeguards for protecting special nuclear material; the competence of the design, construction, and operating organizations; the training and qualification of operating personnel; quality assurance programs;

operating and emergency plans; and periodic test and inspection programs for the facility.

The ACRS provides the Commission with independent reviews of, and advice on, the adequacy of standard plant designs and the test programs to support design certification for those plants. It also provides advice on the safety of proposed and operating nuclear plants as well as on safety-related policy matters; rules and regulations; elements of the NRC safety research program; and prioritization, resolution, and implementation of generic safety issues.

1.1.2 Advisory Committee on Nuclear Waste

The ACNW was established by the Commission in June 1988 to provide it with independent reviews of, and advice on, nuclear waste facilities, as directed by the Commission, including application to such facilities of 10 CFR Parts 60⁶ and 61⁷ and other applicable regulations, and legislative mandates such as the Nuclear Waste Policy Act,⁸ the Low-Level Radioactive Waste Policy Amendments Act,⁹ and the Uranium Mill Tailings Radiation Control Act,¹⁰ as amended. The ACNW Charter is in Appendix B and the Bylaws are in Appendix C.

The primary emphasis of the ACNW is on disposal facilities. In performing its work, the Committee reviews and reports on those areas of concern referred to it by the Commission or its designated representatives, and will undertake other studies and activities on its own initiative related to those issues identified by the Commission. The Committee will interact with representatives of NRC, ACRS, other Federal agencies, state and local agencies, Indian Nations, private organizations, etc., as appropriate to fulfill its responsibilities.

The Committee elects a Chairman and Vice-Chairman each year to carry out functions designated by the Committee. The term of office is for one year from July 1 to June 30, and either or both may be reelected

to serve one additional consecutive one-year term.

1.1.3 Division of Responsibilities between ACRS and ACNW

A memorandum from the Executive Director, ACRS/ACNW, to the Chairman, NRC, dated July 11, 1990, established an interface in areas of mutual interest to the two Committees, particularly in the area of decommissioning nuclear facilities. (Appendix D)

1.2 Staff Responsibilities

Figure 2 depicts the organization of the ACRS and the ACNW. The following paragraphs describe the responsibilities of the ACRS/ACNW office staff. Reorganization Plan No. 1 of 1980 (NRC)¹¹ mandated that the Commission delegate the function of appointing, removing, and supervising the staff of the ACRS (the ACNW did not exist at that time) to the Chairman of the ACRS. At the time of the establishment of the ACNW, the Commission directed that staff support for the ACNW be provided from the resources allocated to the ACRS. For a listing of current staff and their specific responsibilities, see Appendix F.

Executive Director

The Executive Director is responsible for coordinating technical, management, and administrative support for the ACRS and ACNW. This includes managing the ACRS and ACNW technical and administrative staffs; maintaining liaison with the Commission, NRC staff, and others to provide for conducting ACRS and ACNW activities in a manner responsive to the needs of the Commission; and providing overall program direction and associated resource management.

Deputy Executive Director

The Deputy Executive Director supports the Executive Director in managing the technical and administrative support staffs necessary for the operation of the ACRS and the

ACNW. This includes providing support in managing the ACRS Fellowship Program (Appendix E) and associated support staff and in establishing priorities, schedules, and resource allocations.

Chief, Nuclear Reactors Branch

The Chief, Nuclear Reactors Branch, coordinates the activities of the ACRS, ACRS consultants, NRC staff, and other participants in ACRS reviews; provides technical support

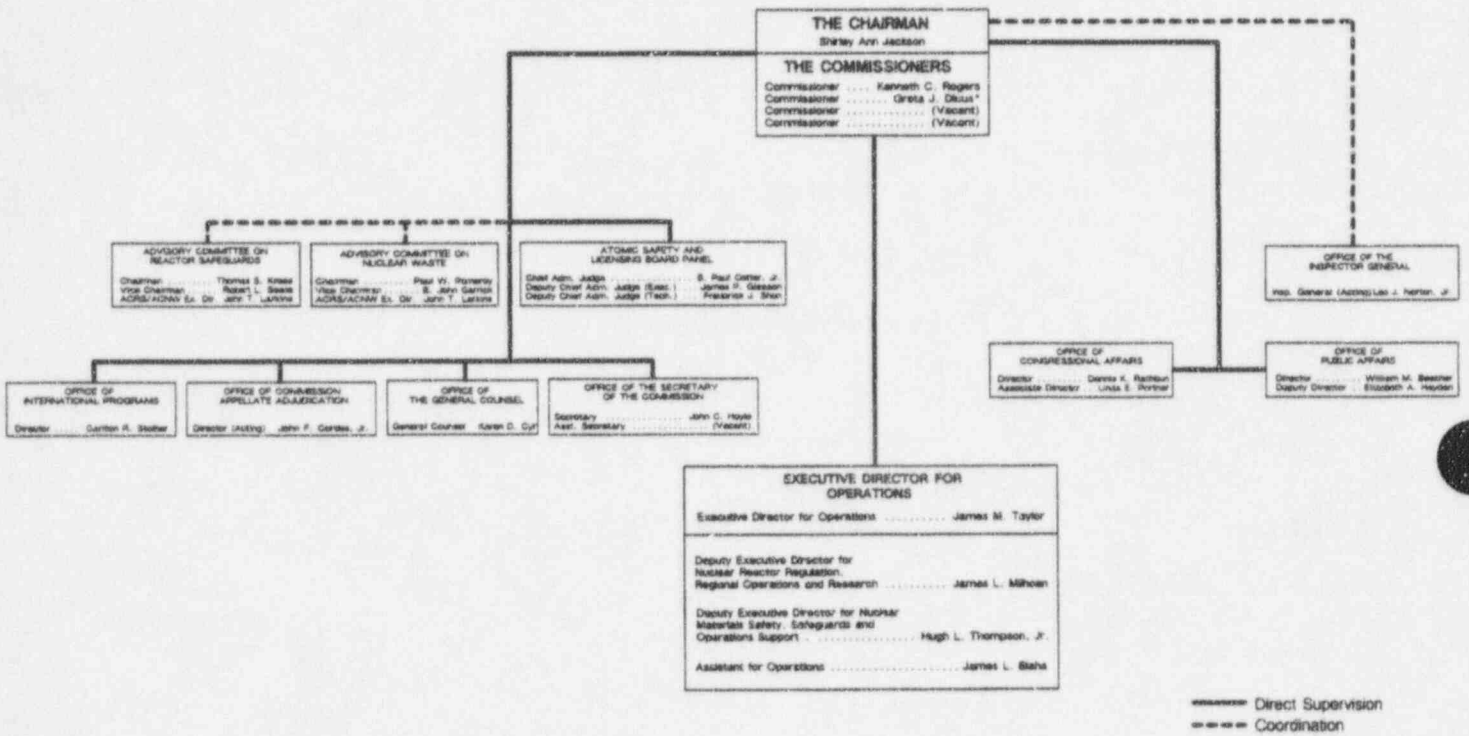
for ACRS activities; and manages the ACRS Nuclear Reactors Branch staff.

Chief, Nuclear Waste Branch

The Chief, Nuclear Waste Branch, coordinates the activities of the ACNW, ACNW consultants, NRC staff, and other participants on ACNW reviews; provides technical support for ACNW activities; and manages the ACNW Nuclear Waste Branch staff

ORGANIZATIONAL CHART

U.S. NUCLEAR REGULATORY COMMISSION



* Scheduled to take office February 15, 1998

Figure 1. Organization of the Nuclear Regulatory Commission

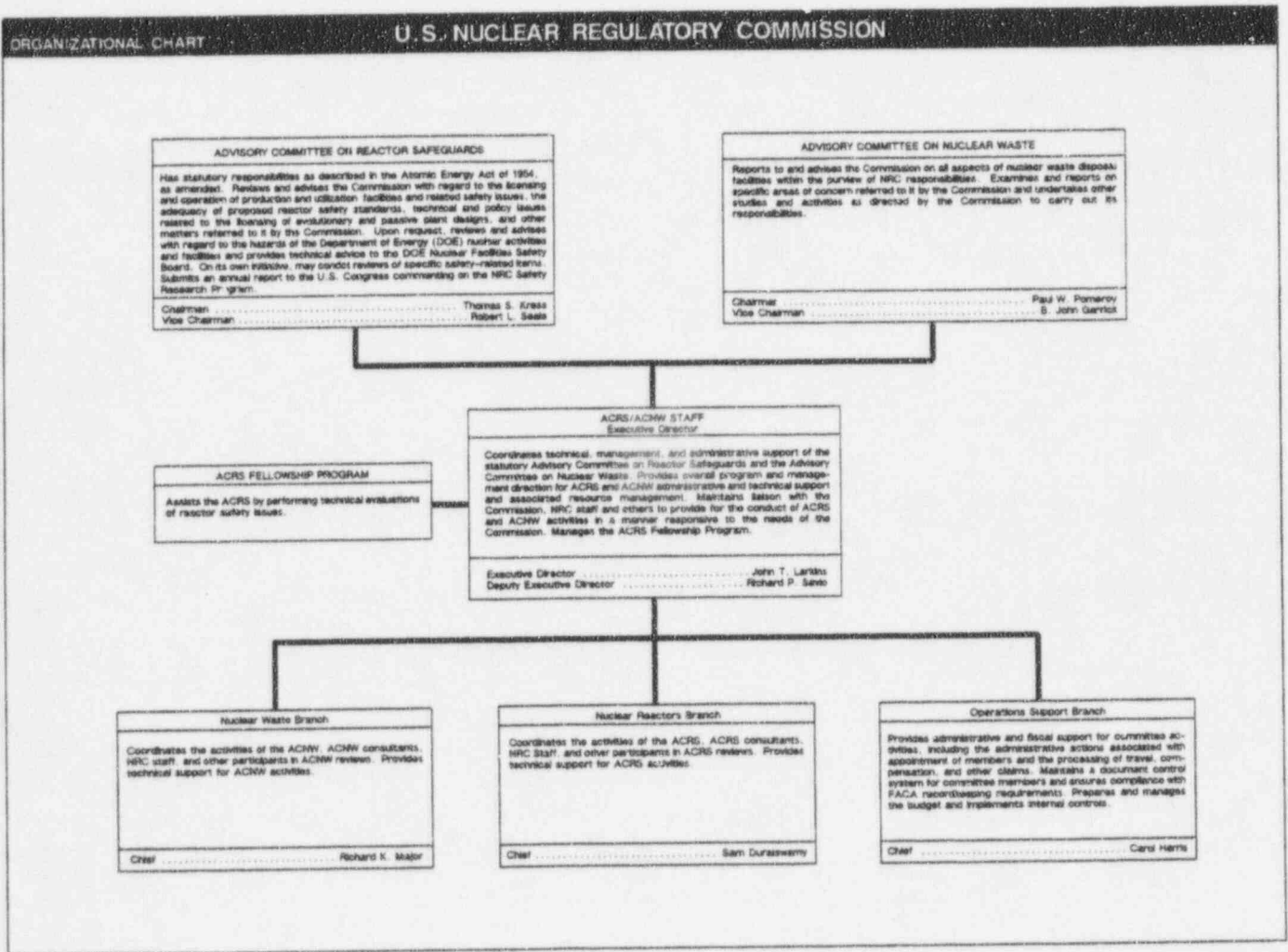


Figure 2. Organization of the Advisory Committee on Reactor Safeguards and Advisory Committee on Nuclear Waste (ACRS/ACNW)

Chief, Operations Support Branch

The Chief, Operations Support Branch (OSB), coordinates administrative and fiscal support for Committee activities, including the administrative actions associated with appointment of Members and processing travel, compensation, and other claims; maintains a document control system for Committee Members and ensures compliance with FACA recordkeeping requirements; assumes responsibility for preparation and management of the budget and the implementation of internal controls; and manages the OSB staff.

1.3 Designated Federal Official

The Designated Federal Official (DFO) ensures that meetings are conducted in

accordance with the provisions of FACA (Appendix A), attends meetings, checks for potential conflicts of interest for Members and consultants attending the meeting, orients new Committee Members, prepares agendas and minutes for the meetings, tracks Committee recommendations, and obtains Agency responses. The DFO also ensures that the FACA-related records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas or other documents that are made available to, or prepared by, the Committee are placed in the Agency's system of FACA records. The DFO assures that meetings are conducted in a manner that is consistent with the public interest and can adjourn it when an adjournment is in the public interest.

2 MEMBERS

2.1 ACRS/ACNW Members

The ACRS and ACNW are comprised of experts from a variety of scientific and technical disciplines. The Members advise the Commissioners on the safety aspects of design features of proposed or existing nuclear power plants and nuclear waste disposal facilities, as they may affect public health and safety; the adequacy of proposed standards; and other aspects of nuclear regulation.

Members and their consultants are "Special Government Employees" (SGEs). Title 18 U.S. Code, Crimes and Criminal Procedures, §202,¹² defines an SGE as an officer or employee of the government appointed or employed to perform temporary duties, with or without compensation, by NRC and/or any other agency for a period not to exceed 130 legal (working) days during any period of 365 consecutive days. Special Government Employees do not earn sick or annual leave or service credit toward Federal government retirement. (An expanded definition of "Special Government Employee" is in Appendix G.)

2.1.1 Criteria

Members must possess extensive knowledge in technical or scientific fields relevant to the Committee to which assigned. The nature of the expertise for ACRS Members changes to meet the changing needs of the Agency. Experience in the area related to nuclear waste disposal is desirable for ACNW Members.

The Commission appoints all Members from applications received in response to advertisements and/or press releases and a *Federal Register* notice announcing Committee vacancies. The Commission determines the number of Committee Members. The practice in recent years is to have 4 Members serving on the ACNW and 11 Members serving on the ACRS.

Criteria used by the Committees to evaluate candidates include education and experience, demonstrated skills in nuclear safety or radioactive waste disposal matters, ability/experience in applying their skills to problems outside of their specific area of expertise, the balance of expertise on each Committee in relation to the tasks that lie ahead, availability to serve, and possible conflicts of interest. If a vacancy is caused by the conclusion of a Member's term and that Member desires and is eligible for reappointment, he/she will be considered on an equal basis with all new applicants.

2.1.2 Selection Process and Appointment of Members

Initial and replacement membership vacancies are usually publicly announced in the *Federal Register* and other publications. Public announcements are intended to produce a greater variety of individuals with expertise in the appropriate scientific disciplines. Public participation should also help meet the FACA mandate to obtain a balanced membership in terms of points of view represented.

For each vacancy, the Commission is provided with a proposed *Federal Register* notice and press release indicating the specific expertise/skills being sought for the opening. When these are published, notification of the search for candidates will also be given to appropriate professional societies and technical organizations. The Committee with the vacancy may also suggest candidates.

Applications are reviewed by a screening panel composed of a full-time Federal employee representing the Committee with the existing or anticipated vacancy, a representative of the Commission, and a full-time non-NRC Federal employee, selected by the Commission, who possesses the ability to evaluate the expertise/skills being sought. The panel will rank the best qualified candidates and submit a copy of its report identifying the selection criteria and rationale

to the Commission and to the appropriate Committee. The Committee should submit its selection recommendations to the screening panel and/or the Commission.

After receipt of the recommendations of the Committee and the panel, the Commission will make a selection, subject to a conflict-of-interest review by the Office of the General Counsel (OGC) and a review by the Office of Personnel (OP). A packet of appropriate NRC and standard forms upon which OGC and OP reviews are based will be forwarded to the nominee for completion and return. If OGC and OP determine after review that the nominee meets all legal and personnel (security and suitability) requirements, the NRC Chairman will officially notify the nominee that he/she has been selected for membership on the Committee. An appointment letter from the Chairman will not be sent to the nominee until after OGC has completed a review of his/her financial statement to determine what limitations, if any, need be placed on the nominee's activities.

Terms of Office

Members are normally appointed to serve a term of 4 years. It is Commission policy that ACRS Members will serve no more than three consecutive terms and ACNW Members will serve no more than two consecutive terms.

Reappointment after the expiration of the first or second term is not automatic. Rather, the Commission will continue to treat pending vacancies on a case-by-case basis.

2.1.3 Compensation

Uniform pay guidelines fix the pay of Members to a daily equivalent of a rate of the General Schedule in Title 5 U.S.C., Government Organization and Employees, Section 5332.¹³ Each July, the NRC Chairman is requested to recertify that Members may be compensated at the daily rate equivalent to Executive Level IV provided in Title 5 U.S.C., Section 5373.¹⁴

Time spent preparing for meetings, while in travel, and at meetings is reimbursable. Payment is made at a hourly rate. Members who work six or more hours in one day will be paid for an 8-hour day, but they will not be paid for more than 8 hours on any given day, regardless of the number of hours actually worked. Members who work less than six hours will be paid for the actual number of hours worked.

The NRC processes compensation for all employees on a biweekly cycle. The Administrative Assistant processes all claims for compensation for Members, so that the Payroll Operations Branch, Office of the Controller (OC), receives the claims in the earliest possible cycle. (Pay periods end every other Saturday.) Payday is the second Tuesday (i.e., 10 days) after the end of the pay period, and pay checks are so dated. Generally, claims are paid within two to four weeks after receipt.

Members Who are National Laboratory Employees

In a recent decision (Comptroller General, B-251181.2, January 14, 1994),¹⁵ the General Accounting Office (GAO) concluded that it is inconsistent with both the Atomic Energy Act¹⁶ and the FACA for the NRC to pay directly to a National Laboratory the cost of obtaining the services of a Laboratory employee as an NRC advisory committee member. GAO strongly endorsed the practice of paying compensation and expenses directly to Members, and leaving them to make their own arrangements with their Laboratories. The rationale on which this opinion is based applies equally well to other employers of NRC advisory committee members.

In view of the above, payment of Members' compensation to their employers will not be authorized. In situations where Members are also employed by National Laboratories and/or private companies, compensation will be paid directly to each Member.

2.1.4 Guidelines for Hours Worked

To control the full-time equivalent (FTE) usage for Members, it is desirable for their

hours worked to average no more than 960 hours per year per Member. This equates to an average of 80 hours per month. Members can work as many hours as necessary to carry out their responsibilities to the ACRS/ACNW and NRC; however, Members should be aware of the 130-day limit to maintain their status as SGEs and the recommended monthly 80-hour work limit. If a Member works beyond the 130-day limit in a year, and if it is anticipated that this workload will continue at a rate in excess of 130 days/year for the following year, his/her status as an SGE is subject to review by OGC and the status may be changed for the following year to that of a "Regular Government Employee" for purposes of conflict-of-interest regulations (10 CFR Part 10, Subpart B)¹⁷ and Hatch Act¹⁸ restrictions on outside political activities. Further information is available in Appendix G.

Instructions for Submitting Compensation Claims

A Compensation Claim Worksheet (Exhibit A) should be completed and submitted for payment for all days on which services are performed, including evenings, Saturdays, Sundays, and holidays. Payment should be claimed for the entire (8-hour) day if services are performed for 6 or more hours of the day. Only the actual hours worked should be claimed for services of less than 6 hours in any one day. Time of service is recorded to the nearest hour.

No compensation may be claimed for services in excess of 8 hours in any one 24-hour day (12 a.m. to 12 a.m.). No regular, overtime, holiday, or premium compensation may be claimed for service in excess of 8 hours in any one day or for evening, Saturday, Sunday, or holiday services. Less than 1 hour worked in any one day will not be compensated and will not be counted toward the 130-day limit. Accumulating hours between days (i.e., adding hours worked on different days until they total 8 hours and claiming one 8-hour day instead of multiple days of 2 or 3 hours worked) is not permitted.

Members who are entitled to compensation should submit a claim (Exhibit A) to the Administrative Assistant for processing. Upon receipt of this claim for compensation, NRC Form 148, "Voucher for Professional Services" (Exhibit B), is prepared by the Administrative Assistant.

The original copy of NRC Form 148 is mailed to the claimant for signature, together with one copy for the claimant's file and a return envelope. One copy and the worksheet are retained in the Member's folder.

After receipt of the signed claim form, the Administrative Assistant signs it; the Chief, OSE, reviews and initials it; and the Deputy Executive Director also reviews it for reasonableness and initials it. The original copy is sent to the Payroll Operations Branch, OC, for payment.

Earnings and Leave Statements

The Payroll Operations Branch sends out NRC Form 709, "Earnings and Leave Statement,"¹⁹ for Members directly to the ACRS/ACNW Office. Before mailing it to the Members, the Administrative Assistant:

1. Compares Form 148 with the Earnings and Leave Statement for accuracy. If an error is discovered, the Administrative Assistant contacts the Payroll Operations Branch by telephone to initiate corrective action, attaches a note of explanation to the Earnings and Leave Statement, and forwards it to the Member within 2 working days of receipt.
2. Files Form 148 and a copy of the Earnings and Leave Statement in the claimant's ACRS/ACNW Travel File.
3. Maintains the file copy for approximately 2 years from date of receipt in the ACRS/ACNW Office and then destroys it.

2.1.5 Travel Procedures

Members are authorized to attend Committee or NRC-sponsored meetings without prior

approval. Prior approval for other domestic travel and for all foreign travel must be obtained from the Planning and Procedures Subcommittee and the Full Committee for ACRS Members, and from the Full Committee for ACNW Members. Such requests for travel are made on the ACRS/ACNW Special Travel Endorsement Form (Exhibit C), which describes the relevance of the trip to Committee business and indicates whether the Member is requesting payment for travel and/or per diem costs, registration fees, if applicable, and so forth.

If the Full Committee approves a request for foreign travel, the Member must then complete and sign NRC Form 445 (Exhibit C), which the Administrative Assistant submits for approval to the Office of International Programs and the NRC Chairman. Form 445 should be submitted at least 60 days prior to the date of the planned trip.

Guidelines for foreign and domestic travel are in Appendix H. Procedures for monitoring, contacting, and arranging nuclear facility visits are found in Appendix I.

Government rates must be obtained for all travel and lodging. The Administrative Assistant, who is responsible for Members' travel, will arrange travel directly with the Member or with any other person the Member designates. Travel should be approved at least 14 days in advance of the travel date for domestic travel and 45 days in advance for foreign travel. To make or change travel plans directly, Members should call Carlson's Wagonlit Travel Services: 202-554-1850 in the Washington area, and 1-800-248-0038 outside the Washington area. For emergency travel after business hours, call 1-800-777-7999 and identify the travel as NRC official travel. A government-issued credit card for travel (currently American Express) may be obtained through the Administrative Assistant. It may not be used for any purpose other than official government travel.

While engaged in the performance of ACRS/ACNW duties away from their homes

or regular places of business, Members are allowed travel expenses, including per diem in lieu of subsistence, as authorized by Title 5, U.S.C., Section 5703²⁰ for persons employed intermittently in the government service.

Domestic travel may be arranged by the Administrative Assistant or by the Member through Carlson's Wagonlit Travel Services or by using his or her government-issued credit card.

In all cases, Members shall use government-approved contract carriers. The government makes special contract arrangements between certain "city-pairs" with specific airlines. If it is not possible to use a contract carrier, the Administrative Assistant should be contacted to obtain a "non-use" exception prior to finalizing the travel arrangements. For all travel and lodging expenses, a rate at or below the government rate should be obtained because Members will be reimbursed only up to the government rate, unless prior approval for a higher rate has been authorized. If unauthorized lodging costs exceeding the government rate are incurred, the Member is responsible for paying the difference.

Additional considerations:

1. Government contract airlines should be used and government rates obtained for all plane tickets and hotel reservations.
2. Members should advise the Administrative Assistant or Program Assistant of trip cancellations or date changes as soon as possible. Members who do not request the Administrative Assistant or Program Assistant to cancel hotel reservations due to trip cancellations or changes must cancel their own reservations. Otherwise, Members are personally responsible for hotel charges incurred as a result of failure to cancel reservations in a timely manner.
3. The Program Assistant may assist in making hotel reservations. If the Program Assistant makes hotel reservations for Members to attend a Full Committee, Subcommittee, or Working Group

- meeting and the meeting is subsequently cancelled by the ACRS/ACNW Office, the Program Assistant will automatically cancel those hotel reservations.
4. Receipts must be submitted for lodging and any miscellaneous expenditures of \$25 or more, excluding meals, unless actual meal reimbursement is authorized.
 5. Rental cars must be approved in advance on a trip-by-trip basis. Members should **not** rent a car unless it is specifically authorized. Rental cars are not authorized in the Washington, DC, area.
 6. If Members wish to combine government travel with other travel, they must first purchase a government ticket using the Agency's centrally billed charge account or their government-issued credit card. The government ticket should then be traded for a ticket that accommodates the actual travel plans, with any difference in cost being charged to the Member's own personal credit card.

An official trip may only be extended for personal reasons if the Member is not claiming compensation by the NRC for the time consumed by the personal portion of the trip, and if the extension incurs no additional cost to the NRC. Members may **not** extend a stopover on a government-issued through-fare ticket for personal reasons.

7. Travel claims should be submitted to the Administrative Assistant as soon as possible after completion of travel.
 8. The original NRC Form 64 (Exhibit D), Travel Voucher, is mailed to the Member for signature together with a copy for the Member's file and a return envelope. One copy of the travel voucher, the original receipts, and the Compensation Claim Worksheet are retained in the Member's folder.
9. Travelers on official government business are insured for \$200,000 portal to portal when common carrier tickets are charged to the Government Travel Account or to individual government-issued credit cards. Also covered is \$1,250 carry-on baggage insurance and \$500 checked baggage insurance.
 10. In the event of an accident while the Member is driving a specifically authorized rental car, the Administrative Officer should be contacted as soon as possible.
 11. When Members use Committee funds for travel and/or compensation, they are expected to submit a Trip Report for each meeting and conference, except Committee or NRC-sponsored meetings. Procedures for submitting these reports are in Appendix H.

2.1.6 Travel Management Center (TMC) Exception

ACRS/ACNW Members are granted an exception to the Agency's requirement that travelers obtain airline tickets from a Travel Management Center (TMC) using the Agency's centrally billed charge account. The exception is granted with the following provisions:

1. Tickets must be purchased directly from the airline with the traveler's government-issued credit card. Tickets may be purchased by cash, check, or personal credit card only when round-trip fare does not exceed \$100, or under emergency circumstances.
2. The Administrative Assistant will approve ticket purchases upon review only if a contract carrier was used, or non-use of a contract carrier was justified, and if the lowest possible fare was obtained. Reimbursement for airline tickets purchased by Members cannot exceed the approved government city-pair rate.

2.1.7 Frequent Flyer Programs

Frequent Flyer miles/coupons accumulated during NRC travel are the property of the United States government and should be used only to carry out official government business. For the latest regulations concerning "Frequent Flyer Programs," check with the Administrative Assistant.

2.1.8 Reimbursement for Expenses

If Members expect to make several purchases of supplies or equipment per year, they are encouraged to request a government-issued BankCard (Visa). This is a different card from the government-issued credit card used for travel (currently an American Express card). Instructions for use of the BankCard are found in Appendix J.

Current policy guidance follows:

1. *Office Space.* Members may lease space outside their homes in which to work on Committee business or store documents. The appropriate form (Exhibit E) must be completed and approved. In some cases, the NRC may find acceptable space; in other cases, the Member may be asked to identify an acceptable location. In all cases, a contract for the leased space will be signed by Office of Administration (ADM), not by the Member.
2. *Secretarial and Clerical Assistance.* Members are entitled to a reasonable amount of secretarial or clerical assistance for Committee business. The appropriate form (Exhibit E) must be completed and approved before arrangements for assistance are made, generally by a contract with the NRC. Members will not be reimbursed for expenses incurred for technical, engineering, or scientific support. Members who need such assistance must discuss their requirements with the cognizant Senior Staff Engineer/Scientist.

Title 18, U.S.C., Section 208(a),²¹ prohibits government employees from participating personally and substantially in any particular government matter that could directly affect the financial interests of the employee, the employee's spouse, or the employee's minor child. If Members were to hire a spouse or minor child to provide clerical support for their work, they would be participating in a matter that directly affects their financial interests. Therefore, Members may not be reimbursed for expenses incurred for secretarial or clerical services performed by a spouse or minor child. (Other financial interests that are imputed to a government employee are in Appendix G.) The restrictions of Section 208 can be waived, however, if the Chairman, NRC, certifies in writing that the need for the Member's services outweighs the potential for a conflict of interest created by the particular financial interest involved.

3. *Noncomputer-related Purchases.* Each Member will be given a yearly allotment for miscellaneous purchases such as office supplies and equipment.

Members with BankCards may make any noncomputer-related purchase up to \$200 without prior authorization, as long as their yearly limit has not been exceeded. Any purchase over \$200 must have prior authorization from the Chief, OSB, and cannot exceed \$500. A sample form for requesting prior authorization is in Exhibit E.

Members without BankCards must request all purchases of supplies and equipment, regardless of the dollar amount, from the Administrative Officer, who will make the purchase with the ACRS/ACNW BankCard if possible. Purchases that cannot be made with the ACRS/ACNW BankCard must be requested by Members using the appropriate form (Exhibit E). All such purchases must be recommended by the Chief, OSB, and all requests must be approved by the Division of Contracts (DC), ADM, in

advance of purchase. After the purchase is made, receipts and/or cancelled checks for such purchases must be sent to the Administrative Officer, who will complete Standard Form 1034²² and forward it with the receipts to OC for reimbursement. All receipts for such purchases should be turned in by October 31 for the prior fiscal year ending on September 30.

4. *Computer Equipment.* Computer hardware and software purchases may be made with a Government BankCard but every purchase, regardless of the cost, must have prior written approval from the Executive Director, ACRS/ACNW. A sample form for this purpose is in Exhibit E.
5. *Property Ownership.* All property purchased with government funds is government property and certain items must be appropriately tagged. At the end of a Member's term, government property must be returned to the government or disposed of in accordance with instructions by the Property Management Branch (PMB), ADM. Items purchased with government funds, including computers and their accessories, may be used only for official government business.

At the end of each fiscal year, PMB will send each Member a list describing all NRC equipment in the Member's custody. The list will exclude expendable supplies and equipment that cost less than \$50. The Member will be asked to provide a description of any equipment that costs more than \$50 and is in the Member's custody but not on the list. Any equipment listed which is not in the Member's custody should be deleted from the list with an explanation. The corrected list should be signed and returned to PMB as soon as possible.

The Administrative Officer will notify PMB 60 days prior to the expiration of a Member's term, or as soon as possible in the event of a resignation. PMB will

determine whether to abandon or reclaim the property based on the government's best interest and notify the Member accordingly. If the property is to be returned to the NRC, PMB will provide instructions on packing and shipping. The Committee Member will be reimbursed by the NRC for the cost of shipping and handling.

2.1.9 Personal Injury Compensation Benefits for Members

As Special Government Employees, Members are entitled to benefits under the Federal Employees Compensation Act (FECA)²³ for disability due to personal injury sustained while in the performance of duty or due to employment-related disease. Further information on personal injury compensation benefits can be obtained by contacting the Chief, OSB.

2.1.10 Electronic Communications

Members with an NRC AUTOS LAN User ID can send and receive internet mail through AUTOS. Their internet address is their AUTOS LAN User ID followed by "@nrc.gov."

The ACRS/ACNW electronic bulletin board system (BBS) is also available for Members to communicate with the staff. The BBS is maintained by the Information Systems Specialist, OSB. The Information Systems Specialist arranges for an AUTOS LAN account and User ID for each new Member, and provides Member access to the BBS.

2.2 Conflicts of Interest

2.2.1 General Provisions (5 CFR Part 2635, "Standards of Ethical Conduct For Employees of the Executive Branch," Subpart A)

To ensure that every citizen can have complete confidence in the integrity of the Federal government, each employee shall respect and adhere to the fundamental principles of ethical conduct set forth in this section, as

well as the implementing standards contained in this part and in supplemental Agency regulations (see Appendix G).

1. Public service is a public trust, requiring employees to place loyalty to The Constitution, the laws, and ethical principles above private gain.
2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
3. Employees shall not engage in financial transactions using nonpublic government information or allow the improper use of such information to further any private interest.
4. Employees shall not, except as permitted by "Standards of Ethical Conduct for Employees of the Executive Branch,"²⁴ solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
5. Employees shall put forth honest effort in the performance of their duties.
6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the government.
7. Employees shall not use public office for private gain.
8. Employees shall act impartially and not give preferential treatment to any private organization or individual.
9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities. Government property should be used for government business and should, under no circumstances, be used to conduct nongovernment business. This does not preclude maintaining personal calendars, schedules, etc., on government-owned computers.
10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official government duties and responsibilities.
11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those (such as Federal, state, or local taxes) that are imposed by law.
13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or disabling condition.
14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with the knowledge of the relevant facts.

Members are cautioned that there may be additional statutory and regulatory restrictions applicable to them generally or as employees of the NRC. For example, any Member who works more than 130 legal days in a 365-day period may no longer be covered by certain statutory conflict-of-interest exemptions (Title 18 U.S.C., Sections 205-209).²⁵ Note that the Office of Government Ethics (OGE) has stated that for purposes of determining whether an individual has exceeded the legal-day limit of 130 days for SGEs, a part of a day counts as a full day. Members are considered to be aware of the requirements of any statute. Therefore, they should not rely

upon any description or synopsis of a statutory restriction, but should refer to the statute itself (5 CFR Part 2635)²⁶ and obtain the advice of an NRC ethics official, OGC, as needed.

2.2.2 Security Ownership Restrictions

Members are precluded from owning any securities issued by major entities in the nuclear field that are specified on a list published annually by OGC (see Appendix G). The security ownership provision extends to the spouse and minor children of the Member.

The NRC Chairman is authorized to grant a waiver to permit holding of prohibited securities if divestiture would result in substantial financial hardship. The NRC Chairman also grants waivers to the ACRS and ACNW Chairmen for the items listed in 2.2.3 (1), (2), and (3) below. The Agency's general practice is to grant waivers that will permit a Member to hold prohibited securities held at the time of appointment to the Committee or that were substantially acquired involuntarily through marriage, gift, or inheritance.

2.2.3 Ethics Approvals and Waivers

NRC employees must receive approval or a waiver before engaging in certain activities or accepting certain gifts or awards, pursuant to ethics statutes or regulations in 5 CFR Chapter XVI²⁷ promulgated by OGE. The NRC is authorized under OGE regulations to designate individuals who can act upon requests for approvals or waivers. All approvals or waivers must be in writing unless otherwise specified in Management Directive 7.9 "Ethics Approvals and Waivers."²⁸ Members should refer to this Directive to determine when prior approval or a waiver is required and which NRC officials have been delegated authority to grant the necessary approvals or waivers. Management Directive 7.9 applies to all current and former NRC employees and SGEs.

For example, the ACRS and ACNW Chairmen may grant waivers for Members other than themselves when the Member:

1. has a pension interest that cannot be affected by the Member's NRC action,
2. is affiliated with a distinct branch of a university and requests permission to advise the Commission on matters affecting other university branches, or
3. renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization.

OGC should be consulted prior to the granting of any waiver of these conflict-of-interest provisions by the ACRS or ACNW Chairman. The Chairman of the NRC can grant similar waivers to the Chairmen of the ACRS and ACNW. Requests for waivers of the Agency's security ownership restrictions should be submitted to OGC to be forwarded to the NRC Chairman for decision.

2.2.4 Confidential Financial Disclosure Reports (SF 450)

All Special Government Employees who work 60 days or less during a 365-day period must file an SF 450 "Executive Branch Personnel Confidential Financial Disclosure Report" (Exhibit F). Management Directive 7.6, "Public and Confidential Financial Disclosure Reports,"²⁹ contains specific guidelines for filing SF 450. See Appendix G for additional information.

2.2.5 Public Financial Disclosure Reports (SF 278)

Members who work more than 60 days during a 365-day period must file an SF 278 "Executive Branch Personnel Public Financial Disclosure Report" (Exhibit G). Each March, OGC requests from OP a list of all individuals who are required to fill out an SF 278. OP is responsible for identifying, maintaining, and updating master lists of SF 278 filers. OP will also give Members who terminate their NRC service an SF 278 to be

filed within 30 days of terminating service, unless the Member assumes another government position requiring the filing of an SF 278. See Appendix G for additional information.

2.2.6 Postemployment Restrictions

The Ethics in Government Act of 1978 (Title 18 U.S.C., Sections 207 and 216),³⁰ as amended, imposes certain postemployment restrictions on the activities of former government employees. The text of these restrictions and the OGE implementing regulations are published in 5 CFR Parts 2637 and 2641.³¹ See Appendix G for additional information.

2.2.7 Conflict-of-Interest Checks for ACRS/ACNW Meetings

To ensure that Members and consultants involved in ACRS/ACNW meetings do not have a potential conflict of interest, the Senior Staff Engineer/Scientist responsible for that particular meeting reviews the files of the Members and consultants attending the meeting for potential conflict of interest, taking into account the topics to be considered during the meeting. For Subcommittee/Working Group meetings, the cognizant Senior Staff Engineer/Scientist will document his/her findings in a memorandum to the Executive Director. For each Full Committee meeting, the cognizant Branch Chief will provide such a memorandum to the Executive Director. The following should be contained in the memorandum:

- Identification of the meeting (i.e., meeting number and date).
- A statement that, based on the planned agenda, the personal information files of Members and consultants who are to attend sessions of the meeting were reviewed for conflicts of interest.
- A list of attendees who may have a conflict of interest, and the specific topics in which the attendee should not participate.

If a conflict appears, the Senior Staff Engineer/Scientist should contact Members to ascertain that their interests have not changed since their last financial statement submission. If the interests have changed, the Senior Staff Engineer/Scientist should discuss the situation with the appropriate Branch Chief and the Deputy Executive Director. **Members should promptly notify the Administrative Officer of any changes in their financial interests that have occurred since their last financial disclosure statement.**

Members who work more than 60 days but less than 130 days a year may not act as an agent for anyone other than the Federal government (e.g., for a university or laboratory) before the Federal government (e.g., NRC, DOE) with respect to any particular matter in which the individual personally and substantially participated as an SGE. **The Member should consult the Executive Director or the Deputy Executive Director if the Member does not clearly understand his or her status on a particular matter.** Acting as an agent includes signing letters to the NRC on behalf of a private party or meeting with the NRC staff on the matter. For more information, see Appendix G.

2.2.8 Annual Ethics Training

Special Government Employees must receive annual ethics training from OGC.

2.3 Consultant Services

A consultant normally serves as an advisor to the ACRS/ACNW for the purpose of providing expertise in a defined area when Committee Members have determined that their own knowledge of these areas will not suffice. He or she provides views or opinions on issues and questions presented by the ACRS/ACNW. While the ACRS/ACNW frequently require the services of consultants, Members do not have the authority to hire them. The proposal to hire a consultant for Subcommittees or Working Groups must be approved by the Deputy Executive Director. The reviewing official for these decisions is the Executive Director.

The consultant must be hired using relevant NRC procedures. When proposing the use of a consultant's services, Members must contact the cognizant Senior Staff Engineer/Scientist who will ensure that the correct procedures are followed. The lead time to complete the necessary arrangements ranges from a minimum of 30 days to a maximum of several months. Failure to follow NRC regulations when obtaining consultant services will result in unauthorized procurement actions that can lead to the imposition of severe penalties.

Except for invitational travel, compensation is normally paid to ACRS and ACNW consultants for time spent in preparation, on travel, and at meetings. Invitational travel occurs when a consultant is invited to attend a Committee, Subcommittee or Working Group meeting to advise the Committee with the understanding that the consultant will not be paid a salary for his or her time and participation. Although no compensation is paid for invitational travel, the consultant is reimbursed for travel and per diem to the extent that such expenses are allowed by NRC regulations.

The ACRS/ACNW staff will maintain a roster of consultants approved by the Committee Vice-Chairman. This roster is reviewed annually and consultants whose expertise is no longer needed are notified and removed from the roster. Approval of the Deputy Executive Director must be obtained prior to initiating the process for the appointment of a new consultant. The areas in which the consultant will assist the ACRS or ACNW, and the Committee reviews that will require the consultant's services, are identified prior to seeking the Deputy Executive Director's approval. As stated above, the use of the

consultant is subject to an annual review. The consultant will not be renewed unless specific ACRS or ACNW reviews can be identified for which the consultant's services will be needed.

When specific tasks are identified for a consultant, the work assignment will be initiated by the "Use of ACRS/ACNW Consultants" form (Exhibit H). A short description of the assignment, the expected work product, and the relevance to the ACRS or ACNW need will be identified. The concurrence of the cognizant ACRS/ACNW staff member and the staff member's supervisor is required before the consultant's work can begin. This will normally involve the concurrence of a Senior Staff Engineer/Scientist and that individual's Branch Chief. A written consultant's report will normally be part of the expected work product and delivery of the report is expected before payment is made to the consultant. For some unusual tasks, a recorded, prepared presentation before a Subcommittee, Working Group, or Full Committee, or some other similar work product, may replace the report. In these cases, the substitution of that type of report will be identified in the initial work assignment.

Consultant reports will normally be completed within a week of the completion of the particular activity in which the consultant is participating (e.g., attendance at a Subcommittee meeting). When there is a need, the cognizant Subcommittee or Working Group Chairman may require completion of the consultant's report in less than a week. Timely completion of consultant reports will be a prerequisite for the continued use of a consultant.

3 MEETINGS

3.1 Full Committee Meetings

The Chairman, or in his or her absence, the Vice Chairman, shall preside over the meeting. ACRS/ACNW meetings will be open to public attendance, except for those portions in which matters are to be discussed that are exempt from public disclosure under FACA (Appendix A) or other appropriate rules or statutes. Active participation in the meeting is normally confined to:

- Members of the Committees
- ACRS/ACNW staff, as needed
- ACRS/ACNW consultants, or others assisting the Committee, as needed
- NRC staff and its consultants and contractors, as needed
- Licensees and applicants, and their consultants and contractors, as needed
- Members of the public in accordance with FACA
- Other persons with the consent of the Chairman

The Chairman has both the authority and the responsibility to maintain order and decorum, and may, at his or her option, recess the meeting until a later time if these are threatened. The Chairman may also request the removal by NRC security personnel of any person who speaks without recognition by the Chair, who addresses subjects not under discussion by the Committee, or who otherwise interferes with the orderly conduct of Committee business. It is recommended that ACRS/ACNW senior management be informed before such action is taken.

During those portions of a meeting that are open to the public, electronic recording of the proceedings is permitted. Television recording of the meeting will be permitted to the extent that it does not interfere with the proper conduct of Committee business or with the

right of the attending public and does not present a security risk. Recordings will be permitted only during those sessions of the meeting that are open to the public.

The Committee has the responsibility to make available to the public, consistent with FACA and the Freedom of Information Act (FOIA),³² records and documents (including drafts) that were made available to or prepared for the Committee.

For specific information on initiating and conducting Full Committee meetings, copies of the ACRS and ACNW Bylaws are included in Appendix C.

3.2 ACRS Subcommittee Meetings

The ACRS is organized around a number of topical Subcommittees the purpose of which is to obtain, analyze, and organize information for the consideration of the Full Committee. A Subcommittee may recommend a particular course of action to the Full Committee, which is not bound thereby.

In addition, a standing Subcommittee on Planning and Procedures, chaired by the ACRS Chairman, will evaluate the priorities in the ACRS workload, distribute resources appropriately, and recommend to the Committee both long-term and short-term goals and Subcommittee practices and procedures. The Executive Director of the ACRS will be the cognizant staff member for this Subcommittee.

Subcommittee meetings that are devoted solely to fact-finding, analysis of issues and facts, and preparation of draft position papers for consideration by the Full Committee (i.e., virtually all Subcommittee meetings) are not covered by FACA and need not be open to the public. In the spirit of the "Government in the Sunshine Act,"³³ however, the Committee's practice is to open nearly all of its Subcommittee meetings to public attendance.

Any two Members of the Full Committee will constitute a quorum for a Subcommittee meeting, whether or not they are currently listed as Members of the Subcommittee. No single Member shall function as a Subcommittee, although individual Members may collect information on behalf of either a Subcommittee or the Full Committee.

The Subcommittee Chairman has both the authority and the responsibility to maintain order and decorum and may, at his or her option, recess the meeting until a later time if these are threatened. He or she may also request the removal by NRC security personnel of any person who speaks without recognition by the Chair, who addresses subjects not under discussion by the Subcommittee, or who otherwise interferes with the orderly conduct of the Subcommittee's business. It is recommended that ACRS/ACNW senior management be informed before such action is taken.

For specific information on initiating and conducting Subcommittee meetings, a copy of the ACRS Bylaws is included in Appendix C.

3.3 ACNW Working Group Activities

The ACNW may form ad hoc Working Groups for specific purposes or for review of generic issues. No permanent Working Groups may be authorized except by two-thirds approval of the Committee Members. Working Groups shall consist of at least two Members, one of whom is designated as Chairman of the Working Group by action of the Chairman of the ACNW. Individual Members may be authorized by the Committee to gather information, using resources as approved by the Committee.

At the time of formation of ad hoc or permanent Working Groups, a specific mission statement shall be prepared and approved by the Committee. The Working Group is required to conduct its affairs within that mission statement. All Working Groups

are required to submit to the ACNW reports related to their mission statement. All ad hoc Working Groups are automatically dissolved upon acceptance of their final report by the full ACNW.

The scheduling and conduct of meetings of Working Groups must be in accordance with the procedures outlined in FACA, as amended, and other implementing instructions and regulations (for example, 41 CFR Part 101-6³⁴ and 10 CFR Part 7³⁵).

Any Committee Member may attend Working Group meetings and be counted for the purpose of establishing a quorum. A Working Group meeting may not begin until a quorum of at least two ACNW Members are present.

It may be appropriate from time to time to rotate the Chairmen of ACNW Working Groups to provide a more balanced workload and input by all ACNW Members. To this end, the incoming ACNW Chairman, assisted by the outgoing Chairman, the ACNW Executive Director, and others as appropriate, will conduct an annual review of the assignments of Working Group Chairmen. The ACNW Chairman will advise the Full Committee of proposed changes within three months of assuming the Chairmanship.

The Working Group Chairman has both the authority and the responsibility to maintain order and decorum and may, at his or her option, recess the meeting until a later time if these are threatened. He or she may also request the removal by NRC security personnel of any person who speaks without recognition by the Chair, who addresses subjects not under discussion by the Working Group, or who otherwise interferes with the orderly conduct of the Working Group's business. It is recommended that ACRS/ACNW senior management be informed before such action is taken.

For specific information on initiating and conducting Working Group meetings, a copy of the ACNW Bylaws is included in Appendix C.

4 SECURITY

The security objectives are to safeguard sensitive and classified information against disclosure to unauthorized personnel, to prevent unauthorized persons from gaining access to ACRS/ACNW facilities or information, and to protect government property from loss or damage. These objectives are accomplished through the knowledge and application of sound security practices. Elements of sound security practice include:

- Personnel security clearances
- Facility security controls (e.g., guards, alarms, and access controls) for office space
- Information safeguards
- Communications security
- Emergency procedures

Security within the ACRS/ACNW is coordinated by the Security Advisor, as guided by the Division of Security (SEC). Detailed information concerning NRC's Security Program is found in Sections 12.2 and 12.3 of Management Directive 12, "Security."³⁶

4.1 Personnel Security Clearances

Access authorization (security clearance) for Members must be requested from SEC through OP in accordance with Management Directive 12.3 "NRC Personnel Security Program."³⁷ Each request must be accompanied by a properly completed personnel security forms packet which includes, but is not limited to:

- "Personnel Security Clearance Request and Notification" (Employees/Consultants) (NRC Form 236)³⁸
- "Questionnaire for Sensitive Positions" (QSP) (SF-86, Parts 1 & 2)³⁹

- Two fingerprint cards (SF-87 for Federal employees)⁴⁰
- "Security Acknowledgment" (NRC Form 176)⁴¹
- Two copies of a resume, Form OF 510 "Applying for a Federal Job,"⁴² or any successor form
- One copy of all required reference checks

The information contained on the security forms is used in conjunction with other relevant information to determine a person's initial or continuing eligibility for a security clearance under the provisions of Management Directive 12.3⁴³ and 10 CFR Part 10.⁴⁴

A request for a security clearance is a normal part of the employment process. Each ACRS/ACNW candidate is processed for access authorization at the time of appointment. Additionally, every currently cleared Member has his or her eligibility for clearance reviewed and updated on a regular basis, normally every five years.

The steps in the clearance request process are as follows:

1. The ACRS/ACNW candidate completes the personnel security clearance form and forwards it to the Administrative Officer.
2. The Administrative Officer determines the appropriate level of security clearance required in accordance with office policy and Management Directive 12.3, Part 1(B)(2),⁴⁵ reviews the personnel security clearance forms for completeness (except for Part 2 of SF 86 which is sealed in a privacy envelope, NRC Form E-1,⁴⁶ by the individual); and prepares a letter requesting a pre-appointment investigation waiver to allow the individual to begin work prior to the completion of the required investigation (a Section 145b, Atomic Energy Act, request).⁴⁷ The

waiver request memorandum, NRC Form 236, and the security clearance forms are forwarded to OP.

3. OP and the Personnel Security Branch, SEC, process the waiver request and personnel security clearance forms in accordance with applicable directives, including Management Directive 12.3.⁴⁸
4. Certain matters that may affect an individual's eligibility for NRC access authorization must immediately be reported to the Director, SEC, by the ACRS/ACNW applicant, Member, or management. See Management Directive 12.3, Part 1 (N)(4)⁴⁹ for specific guidance.

4.2 ACRS/ACNW Access Control

Access to the Two White Flint North ACRS/ACNW office area is controlled through the use of a card key security system. Members gain entrance to ACRS/ACNW office spaces by inserting their identification card into the card reader slot. Visitors, other than those present for a scheduled ACRS/ACNW meeting, must be escorted. Attendees at scheduled meetings are not required to be escorted but must sign in and will be badged and are restricted to the ACRS/ACNW meeting rooms.

4.2.1 Lockouts

In the event a card reader malfunctions or a Member is otherwise unable to access ACRS/ACNW space, the problem should be reported to the Facility Security Branch, SEC.

4.2.2 Lost/Forgotten Badges

Should a Member lose a photo identification badge, SEC will issue a new one. To obtain a new badge:

- Wait 5 working days before requesting a new badge. This will allow sufficient time for the badge to be returned if found.

- Complete NRC Form 217, "Lost Badge Report,"⁵⁰ and send to SEC.
- Schedule an appointment by contacting the Facility Security Branch, SEC, to get a new badge. If a Member forgets a badge, a temporary key card may be obtained from the security officer located in the building lobby.

4.2.3 Prohibited Items

Pursuant to Federal regulations and NRC directives, certain items are prohibited from Federal buildings and within NRC space. These items include radio transmitters, recording devices, cameras, copying devices, and any other item that may jeopardize the security of NRC property or information. However, based on a request from ACRS/ACNW staff, SEC has authorized the use of audio recording devices and/or cameras (including video cameras) with the following provisions:

1. These devices are to be used solely to record ACRS/ACNW meetings. If, at any time, classified or sensitive unclassified information is introduced or discussed, the devices must be turned off.
2. Anyone using these devices must make such use openly known to those in attendance.
3. Use of these devices is restricted to the ACRS/ACNW meeting rooms (T-2B1 or T-2B3). The only exception to these rooms is when either Committee must meet in an alternate location due to special needs (e.g., audience size).

4.3 Information Security

In performing its duties, ACRS/ACNW Members have access and are exposed to a large amount of government and private information. Much of this is information that, under the Commission's regulations and Federal statute, is available to the public. This includes license applications, supporting safety analyses submitted by an applicant, and

correspondence concerning license applications that are, as a matter of course, made available for inspection by any member of the public in the Commission's Public Document Room, 2120 L Street, NW, Washington, DC.

Certain other information furnished to the ACRS/ACNW by the Commission or by applicants or their vendors, or developed internally by the Committees, may be protected from public disclosure as provided in 10 CFR Part 9, "Public Records" (Appendix K). The Advisory Committee Management Officer (Office of the Secretary, NRC) shall make all determinations as to whether ACRS or ACNW material that may be protected from disclosure can or should be released as provided in 10 CFR Part 9. Examples of information that should be protected from public disclosure are:

- Classified information (e.g., National Security Information or Restricted Data)
- Sensitive unclassified information including unclassified Safeguards Information, Proprietary, and Official Use Only information
- Information that would represent an unwarranted invasion of personal privacy of the individuals discussed

To prevent inadvertent release of ACRS or ACNW material that may need to be protected from disclosure, any material prepared by ACRS consultants for the Committee should be marked "Internal ACRS Use Only" and any material prepared by ACNW consultants for the Committee should be marked "Internal ACNW Use Only," if it contains advice, opinions, or recommendations. Material containing

proprietary information should be so marked. (Classified material should, of course, also be appropriately marked.) Such markings should be made by the originator of the material; however, if the originator fails to do so, this marking will be added by the ACRS/ACNW staff upon receipt of the material.

Material designated "Internal ACRS/ACNW Use Only" or "Proprietary Information" must be handled in accordance with NRC Management Directive 12.6, "NRC Sensitive Unclassified Information Security Program" (Appendix L) and Management Directive 3.1 "Freedom of Information Act."⁵¹ Classified information is subject to stringent safeguards and must be handled only in accordance with Management Directive 12.2, "NRC Classified Information Security Program,"⁵² and with applicable laws and regulations. Distribution of consultant reports will be handled by the ACRS/ACNW office in accordance with guidance from the Committee and Subcommittee Chairmen.

Instructions to Members Regarding Allegations

When Members are serving as SGEs, they are expected to give prompt, positive action with respect to safety and security concerns. Any Member receiving an allegation should promptly notify and forward all relevant information to a cognizant Senior Staff Engineer/Scientist, who will notify the appropriate allegation coordinator (OAC), or should directly notify an OAC in NMSS, NRR, or one of the regions. Members receiving what appears to be an allegation should promptly inform an OAC, whether or not the allegor characterizes his or her concerns or remarks as an allegation. Further guidance can be found in Appendix M.

REFERENCES

1. 41 CFR Part 101-6: Federal Advisory Committee Management Regulations
2. 10 CFR Part 7: NRC's Advisory Committee Regulations
3. Atomic Energy Act of 1954
4. Energy Reorganization Act of 1974
5. Ibid 2
6. 10 CFR Part 60: Disposal of High-Level Radioactive Wastes in Geologic Repositories
7. 10 CFR Part 61: Licensing Requirements For Land Disposal of Radioactive Waste
8. Nuclear Waste Policy Act of 1982
9. Low-Level Radioactive Waste Policy Amendments Act of 1985
10. Uranium Mill Tailings Radiation Control Act of 1978, As Amended
11. Reorganization Plan No. 1 of 1980
12. Title 18 U.S. Code: Crimes and Criminal Procedures
 - 202 - Definition
 - 205 - Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government
 - 206 - Exemption of Retired Officers of the Uniformed Services
 - 207 - Disqualification of Former Officers and Employees; Disqualification of Partners of Current Officers and Employees
 - 208(a) Acts Affecting a Personal Financial Interest
- 209 - Salary of Government Officials and Employees Payable Only by the United States
- 216 - Ethics In Government Act of 1978
13. Title 5 U.S. Code: Government Organization and Employees
 - 552B - Open Meetings (Government In the Sunshine Act)
 - 5332 - The General Schedule
 - 5373 - Limitation on Pay Fixed by Administrative Action
 - 5703 - Per Diem, Travel and Transportation Expenses; Experts and Consultants; Individuals Serving Without Pay
14. Ibid 13
15. Comptroller General, B-251181.2, January 14, 1994
16. Ibid 3
17. 10 CFR Part 10 - Subpart B: Criteria For Determining Eligibility For Access to Restricted Data or National Security Information or An Employment Clearance
18. Hatch Act
19. NRC Form 709 - Earnings and Leave Statement
20. Ibid 13
21. Ibid 12
22. SF 1034 - Public Voucher for Purchases and Services Other Than Personal
23. Federal Employee's Compensation Act (FECA)
24. 5 CFR Chapter XVI: Office of Government Ethics

- 2635 - Standards of Ethical Conduct For Employees of the Executive Branch: Subpart A - General Provisions
- 2637 - Regulations Concerning Post-Employment Conflict of Interest
- 2641 - Post-Employment Conflict-of-Interest Restrictions
- 25. Ibid 12
- 26. Ibid 24
- 27. Ibid 24
- 28. Management Directive 7.9 - Ethics Approvals and Waivers
- 29. Management Directive 7.6 - Public and Confidential Financial Disclosure Reports
- 30. Ibid 12
- 31. Ibid 24
- 32. Management Directive 3.1 - Freedom of Information Act
- 33. Ibid 13
- 34. Ibid 1
- 35. Ibid 2
- 36. Management Directive 12.0 - Security
- 12.2 - NRC Classified Information Security Program
- 12.3 - NRC Personnel Security Program
- 37. Ibid 36
- 38. NRC Form 236 - Personal Security Clearance Request And Notification
- 39. SF 86 - Questionnaire For Sensitive Positions
- 40. SF 87 - Fingerprint Card For Federal Employees
- 41. NRC Form 176 - Security Acknowledgment
- 42. OF 510 - Applying For a Federal Job
- 43. Ibid 36
- 44. Ibid 17
- 45. Ibid 36
- 46. NRC Form E-1 - Privacy Envelope
- 47. Ibid 3
- 48. Ibid 36
- 49. Ibid 36
- 50. NRC Form 217 - Lost Badge Report
- 51. Ibid 32
- 52. Ibid 36

APPENDIX A
FEDERAL ADVISORY COMMITTEE ACT (FACA)



Public Law 92-463
92nd Congress, H. R. 4383
October 6, 1972

An Act

86 STAT. 770

To authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Advisory Committee Act".

Federal Advisory Committee Act.

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

- (1) the need for many existing advisory committees has not been adequately reviewed;
- (2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary;
- (3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;
- (4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees;
- (5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and
- (6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

DEFINITIONS

Sec. 3. For the purpose of this Act—

- (1) The term "Director" means the Director of the Office of Management and Budget.
- (2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—
 - (A) established by statute or reorganization plan, or
 - (B) established or utilized by the President, or
 - (C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

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(3) The term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

APPLICABILITY

Sec. 4. (a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

Restrictions.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

- (1) the Central Intelligence Agency; or
- (2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES

Review.

Sec. 5. (a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

Guidelines.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

- (1) contain a clearly defined purpose for the advisory committee;
- (2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;
- (3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;
- (4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

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(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

RESPONSIBILITIES OF THE PRESIDENT

Sec. 6. (a) The President may delegate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report.

(c) The President shall, not later than March 31 of each calendar year (after the year in which this Act is enacted), make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of those advisory committees abolished by the President, and in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished together with his reasons therefor. The President shall exclude from this report any information which, in his judgment, should be withheld for reasons of national security, and he shall include in such report a statement that such information is excluded.

Report to Congress.

Annual report to Congress.

Exclusion.

RESPONSIBILITIES OF THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Sec. 7. (a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Director shall, immediately after the enactment of this Act, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

- (1) whether such committee is carrying out its purpose;
- (2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
- (3) whether it should be merged with other advisory committees; or
- (4) whether it should be abolished.

The Director may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Director's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Agency heads shall cooperate with the Director in making the reviews required by this subsection.

Committee Management Secretariat.
Establishment.
Review.

Recommendations to President and Congress.

Agency cooperation.

Performance guidelines. (c) The Director shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

Uniform pay guidelines. (d) (1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code; and

Travel expenses. (B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

80 Stat. 499;
83 Stat. 190.

(2) Nothing in this subsection shall prevent—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee, from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

Expense recommendations.

(e) The Director shall include in budget recommendations a summary of the amounts he deems necessary for the expenses of advisory committees, including the expenses for publication of reports where appropriate.

RESPONSIBILITIES OF AGENCY HEADS

Sec. 8. (a) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees established by that agency, which shall be consistent with directives of the Director under section 7 and section 10. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee within its jurisdiction.

Advisory Committee Management Control Officer, designation.

(b) The head of each agency which has an advisory committee shall designate an Advisory Committee Management Officer who shall—

(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency;

(2) assemble and maintain the reports, records, and other papers of any such committee during its existence; and

81 Stat. 54.

(3) carry out, on behalf of that agency, the provisions of section 552 of title 5, United States Code, with respect to such reports, records, and other papers.

ESTABLISHMENT AND PURPOSE OF ADVISORY COMMITTEES

Sec. 9. (a) No advisory committee shall be established unless such establishment is—

(1) specifically authorized by statute or by the President; or

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(9) determined as a matter of formal record, by the head of the agency involved after consultation with the Director, with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

Publication in
Federal Register.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Director, in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

Charter,
filing.

Contents.

- (A) the committee's official designation;
- (B) the committee's objectives and the scope of its activity;
- (C) the period of time necessary for the committee to carry out its purposes;
- (D) the agency or official to whom the committee reports;
- (E) the agency responsible for providing the necessary support for the committee;
- (F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;
- (G) the estimated annual operating costs in dollars and man-years for such committee;
- (H) the estimated number and frequency of committee meetings;
- (I) the committee's termination date, if less than two years from the date of the committee's establishment; and
- (J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

ADVISORY COMMITTEE PROCEDURES

Sec. 10. (a) (1) Each advisory committee meeting shall be open to the public.

Meetings.

(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Director shall prescribe regulations to provide for other types of public notice to insure that all interested persons are notified of such meeting prior thereto.

Notice.
Publication in
Federal Register.
Regulations.

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

(b) Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

81 Stat. 54.

(c) Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the

Minutes.

Federal Advisory Committee Act—continued

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Certification. advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee.

(d) Subsections (a) (1) and (a) (3) of this section shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines is concerned with matters listed in section 552 (b) of title 5, United States Code. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552 (b) of title 5, United States Code.

81 Stat. 54. Annual report.

Federal officer or employee, attendance. (e) There shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No advisory committee shall conduct any meeting in the absence of that officer or employee.

(f) Advisory committees shall not hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government, and in the case of advisory committees (other than Presidential advisory committees), with an agenda approved by such officer or employee.

AVAILABILITY OF TRANSCRIPTS

"Agency proceeding." 80 Stat. 382.

Sac. 11. (a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.

(b) As used in this section "agency proceeding" means any proceeding as defined in section 551 (12) of title 5, United States Code.

FISCAL AND ADMINISTRATIVE PROVISIONS

Recordkeeping. Sac. 12. (a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United States, or any of his authorized representatives, shall have access, for the purpose of audit and examination, to any such records.

Audit.

Agency support services. (b) Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to more than one agency, only one agency shall be responsible for support services at any one time. In the case of Presidential advisory committees, such services may be provided by the General Services Administration.

RESPONSIBILITIES OF LIBRARY OF CONGRESS

Reports and background papers. Sac. 13. Subject to section 552 of title 5, United States Code, the Director shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.

Depository.

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TERMINATION OF ADVISORY COMMITTEES

Sec. 14. (a) (1) Each advisory committee which is in existence on the effective date of this Act shall terminate not later than the expiration of the two-year period following such effective date unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or that officer by appropriate action prior to the expiration of such two-year period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(2) Each advisory committee established after such effective date shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(b) (1) Upon the renewal of any advisory committee, such advisory committee shall file a charter in accordance with section 9(c). Renewal.

(2) Any advisory committee established by an Act of Congress shall file a charter in accordance with such section upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

(3) No advisory committee required under this subsection to file a charter shall take any action (other than preparation and filing of such charter) prior to the date on which such charter is filed.

(c) Any advisory committee which is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or such officer prior to the date on which such advisory committee would otherwise terminate. Continuation.

EFFECTIVE DATE

Sec. 15. Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following the date of enactment.

Approved October 6, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-1017 (Comm. on Government Operations) and No. 92-1403 (Comm. of Conference).

SENATE REPORT No. 92-1096 accompanying S. 3529 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 118 (1972):

May 9, considered and passed House.

Sept. 12, considered and passed Senate, amended, in lieu of S. 3529.

Sept. 19, Senate agreed to conference report.

Sept. 20, House agreed to conference report.

APPENDIX B
ACRS/ACNW CHARTERS

UNITED STATES NUCLEAR REGULATORY COMMISSION

CHARTER

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

(Pursuant to Section 9 of the Federal Advisory Committee Act)

1. The Committee's official designation:

Advisory Committee on Reactor Safeguards (ACRS)

2. The Committee's objectives and the scope of its activity:

a) Section 29 of the Atomic Energy Act of 1954, as amended, provides:

"There is hereby established an Advisory Committee on Reactor Safeguards consisting of a maximum of fifteen members appointed by the Commission for terms of four years each. The Committee shall review safety studies and facility license applications referred to it and shall make reports thereon, shall advise the Commission with regard to the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards, and shall perform such other duties as the Commission may request. One member shall be designated by the Committee as its Chairman. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Committee, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee. The provisions of Section 163 shall be applicable to the Committee. In addition to its other duties under this section, the Committee, making use of all available sources, shall undertake a study of reactor safety research and prepare and submit annually to the Congress a report containing the results of such study."

b) Section 182 b. of the Atomic Energy Act of 1954, as amended, provides:

"The Advisory Committee on Reactor Safeguards shall review each application under section 103 or section 104 b. for a construction permit or an operating license for a facility, any application under section 104 c. for a construction permit or an operating license for a testing facility, any application under section 104 a. or c. specifically referred to it by the Commission, and any application for an amendment to a construction permit or an amendment to an operating license under section 103 or 104 a., b., or c. specifically referred to it by the Commission, and shall submit a report thereon which shall be made part of the record of the application and available to the public except to the extent that security classification prevents disclosure."

c) Chapter 21, Section 313(f), of the Atomic Energy Act of 1954, as amended (by Public Law 100-456, The National Defense Authorization Act, Fiscal Year 1989), established the Defense Nuclear Safety Board and provides that:

"With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters."

d) 10 CFR 1.13 provides that the ACRS:

". . . upon request of the Department of Energy (DOE), reviews and advises with regard to the hazards of DOE nuclear activities and facilities; reviews any generic issues or other matters referred to it by the Commission for advice. The Committee, on its own initiative, may conduct reviews of specific generic matters or nuclear facility safety-related items."

e) The Energy Reorganization Act of 1974, as amended by Section 6 of Public Law 95-209, added the ACRS Fellowship Program providing that:

"To assist the ACRS in carrying out its function, the Committee shall establish a fellowship program under which persons having appropriate engineering or scientific expertise are assigned particular tasks relating to the functions of the Committee. Such fellowships are for two-year periods and the recipients of such fellowships shall be selected pursuant to such criteria as may be established by the Committee."

3. The time period necessary for the Committee to carry out its purposes:

The Advisory Committee on Reactor Safeguards is a continuing Committee, as provided in the Atomic Energy Act of 1954, as amended (see Item 2, above).

4. Agency or official to whom this Committee reports:

U.S. Nuclear Regulatory Commission

5. Agency responsible for providing necessary support for the Committee:

U.S. Nuclear Regulatory Commission

6. A description of the duties for which the Committee is

responsible, and, if such duties are not solely advisory, a specification of the authority for such functions:

The duties of the Committee are set forth in Item 2, above.

7. The estimated annual operating costs in dollars and staff years for the Committee:

a. \$2,700,000

b. 26 staff years

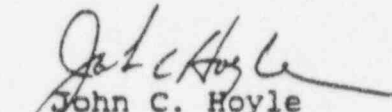
8. The estimated number and frequency of Committee meetings:

Frequency of meetings: 1 meeting per month plus special meetings as required (1 or 2 each year) for the full Committee; and an estimated 74 meetings per year of ACRS subcommittees.

9. The Committee's termination date, if less than two years, from the date of establishment:

Not applicable. See Item 3, above.

10. The filing date: December 23, 1992.


John C. Hoyle

Advisory Committee Management
Officer, SECY

U.S. NUCLEAR REGULATORY COMMISSION
CHARTER
ADVISORY COMMITTEE ON NUCLEAR WASTE

1. The Committee's official designation:
Advisory Committee on Nuclear Waste (ACNW)
2. The Committee's objectives, scope of activities and duties are as follows:

The Committee shall report to and advise the Nuclear Regulatory Commission (NRC) on nuclear waste disposal facilities, as directed by the Commission. This includes 10 CFR Parts 60- and 61 and other applicable regulations and legislative mandates such as the Nuclear Waste Policy Act, the Low-Level Radioactive Waste Policy Act, and the Uranium Mill Tailings Radiation Control Act, as amended. The primary emphasis will be on disposal facilities. In performing its work, the Committee will examine and report on those areas of concern referred to it by the Commission or its designated representatives, and will undertake other studies and activities related to those issues as directed by the Commission. The Committee will interact with representatives of NRC, ACRS, other federal agencies, state and local agencies, Indian Tribes, private organizations, etc., as appropriate to fulfill its responsibilities.

3. Time period (duration of this Committee):

The Advisory Committee on Nuclear Waste is expected to be a continuing committee.

4. Official to whom this Committee reports:

Chairman, U.S. Nuclear Regulatory Commission

5. Agency responsible for providing necessary support to this Committee:

U.S. Nuclear Regulatory Commission

6. The duties of the Committee are set forth in Item 2, above.

7. Estimated annual direct cost of this Committee*

a. \$737,000

b. Total staff-year of support: 5.0 FTE

8. Estimated number of meetings per year:

9. The Committee's termination date, if less than two years, from the date of establishment of renewal:

Not applicable [The ACNW is expected to be a continuing committee with renewal of its charter biennially (every two years) for as long as necessary to fulfill its functions].

10. Filing date:

May 18, 1994

Andrew L. Bates
Andrew L. Bates
Advisory Committee Management
Officer, SECY

- * Includes travel, per diem, and compensation

**APPENDIX C
ACRS/ACNW BYLAWS**

ACRS 110

Revised: May 11, 1991

U. S. NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

BYLAWS

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PREAMBLE

These Bylaws describe the procedures to be used by the Advisory Committee on Reactor Safeguards (ACRS) in performing its duties, and the responsibilities of the members. The functions of the Committee are described in the relevant statutes and in the Code of Federal Regulations (CFR). For parliamentary matters not explicitly addressed in these Bylaws, Robert's Rules of Order shall govern, with the Member-at-Large of the Planning and Procedures Subcommittee serving as parliamentarian.

All the following has as its purpose fulfillment of the Committee's statutory responsibility to provide objective and independent advice to the Commission and to the Congress on matters affecting nuclear safety, and the procedures are intended to make certain that the inputs to that advice are fairly and adequately obtained and considered, that the members and the affected parties have an adequate chance to be heard, and that the resulting reports represent, to the extent possible, the best of which the Committee is capable. Any ambiguities in the following should be resolved in such a way as to support those objectives. Any internal conflicts of interpretation shall be decided by majority vote of the current membership of the Committee.

1 MEETINGS

- 1.1 Regular meetings of the Committee will normally be scheduled for the last three days (Thursday, Friday, and Saturday) of the first full week of each month. Scheduling conflicts may sometimes require deviations from this schedule, and such changes must be approved by the Committee. To the extent possible, any changes will be by multiples of a week, leaving the days of the week unchanged.
- 1.2 In unusual circumstances, special meetings may be scheduled on call of the Chairman or, in his absence, the Vice Chairman. A majority of the members of the Committee may also direct that the Executive Director schedule a special meeting, for the purpose of discussing a particular subject or class of related subjects.
- 1.3 ACRS meetings will be open to public attendance, except for those portions in which matters are to be discussed that are exempt from public disclosure under the Federal Advisory Committee Act (FACA) or other appropriate rules or statutes. Active participation in the meeting is normally confined to:
- Members of the Committee
 - ACRS staff members, as needed
 - ACRS consultants, or others assisting the Committee, as needed
 - NRC staff and its consultants and contractors, as needed
 - Licensees and applicants, and their consultants and contractors, as needed
 - Members of the public in accordance with FACA
 - Other persons with consent of the Chairman
- 1.4 The Chairman has both the authority and the responsibility to maintain order and decorum, and may, at his option, recess the meeting until a later time if these are threatened. He may also order the ejection of any person who speaks without recognition by the Chair, who addresses subjects not under discussion by the Committee, or who otherwise interferes with the orderly conduct of the Committee's business.
- 1.5 During those portions of a meeting that are open to the public, electronic recording of the proceedings is permitted.

- 1.6 Television recording of the meeting will be permitted, to the extent that it does not interfere with the proper conduct of Committee business, or with the rights of the attending public.
- 1.7 The Chairman, or in his absence the Vice Chairman, shall preside over the meeting.

2 MEETING AGENDA

- 2.1 The meeting agenda is determined by the Chairman (in the case of Subcommittee meetings, the Subcommittee Chairman) in consultation with the Executive Director. Inputs of potential agenda items will normally be made by the staff, the Commission, and by individual Committee members.
- 2.2 Except in unusual and pressing circumstances, the Committee will not review matters brought to it by the NRC staff unless documentation adequate to support a responsible review is provided to the members in a timely fashion.
- 2.3 An urgent staff item requiring speedier resolution than contemplated above will be placed on the agenda only if both the Committee Chairman and the relevant Subcommittee Chairman agree. In the event of disagreement, a majority of the Committee membership will decide the issue.
- 2.4 Issues may come to the attention of the Committee through a variety of mechanisms, including self-generation. Whatever the source, review may be through any appropriate mechanism, including but not limited to, placement on a meeting agenda, referral to a consultant for evaluation, referral to a Subcommittee, or creation of an ad hoc Subcommittee.
- 2.5 Information items, and items of general interest, may be placed on the agenda by the Chairman.

3 CONDUCT OF MEETINGS

The scheduling and conduct of ACRS meetings will be in accordance with the Federal Advisory Committee Act, as amended, implementing NRC Rules and Regulations, and other relevant legislation.

- 3.1 A quorum for a meeting of the full Committee consists of a minimum of half the current membership. Decisions shall be made by a majority of those present, except that major decisions shall only be made by a majority of the current membership. Should one or more members be unavailable for compelling reasons (such as extended incapacity or recusal), the current membership shall be regarded as reduced accordingly. A decision to finally approve any report to the Commission is a major decision. If there is doubt whether a decision is major, the Chairman shall rule, subject to reversal by the Committee. Such reversal shall be treated as a major decision.
- 3.2 The Chairman may take part in the discussion of any subject before the Committee, and may vote. He should not use the power of the Chair to bias or otherwise limit the discussion, but should use that power to keep the meeting approximately on schedule. If the Chairman is a strong advocate of one side of a controversial item, he should ask the Vice Chairman to preside over that part of the meeting. Any dispute over the Chairman's level of advocacy shall be resolved by a majority vote of those members present and voting, with a tie supporting the Chairman's position.
- 3.3 When a consensus appears to have developed on a matter under consideration, the Chairman may ask one or more members to draft a report stating the Committee's tentative position. In so doing, he may state or summarize that position for the benefit of the members and others present. However, it should be emphasized that no Committee position is final or binding until it has been formally endorsed, and a report written and approved.

4 REPORTS

- 4.1 For those matters in which an ACRS report is required before Commission action, including but not limited to applications for site approval, construction permits or operating licenses, or plant modification, the applicant will normally be provided the opportunity to discuss the matter with the Committee before the report is issued. The same courtesy will normally be accorded to formal intervenors in the matter, as well as to any other sources of useful input.
- 4.2 Unless matters coming under the FACA exemptions are involved, Committee reports will be prepared in public session. Nonetheless, the deliberations involved are predecisional, and no detailed record will normally be kept of the intermediate steps involved in coming to a decision.
- 4.3 Once a report is finally approved by the Committee, it shall be issued as expeditiously as possible, unchanged, with the following exceptions:
- 4.3-1 The cognizant Subcommittee Chairman should review final ACRS reports for clarity and grammatical correctness but should not make changes that alter the intent of the Committee. If he has doubts regarding a proposed change, he should check with the Committee before making the change.
- 4.3-2 If, in the judgment of the Chairman, a report contains a serious misstatement or error of fact, and that possible error was not addressed by the Committee before final approval, the Chairman is authorized to recommend deferral of the matter until the next meeting. The Committee staff will then conduct a telephone poll of as many as possible of the members who participated in the preparation of the report, explaining the issue as fairly as they can. If a majority of those participants agree with the Chairman, the report shall be so deferred.
- 4.3-3 In cases of time urgency, a rewording may be accomplished through collegial interaction, as,

for example, through a special meeting or a conference call.

- 4.3-4 Committee reports will normally reflect collegial views, and unanimity will often be achieved. Nonetheless, there will be occasions in which the majority is unconvinced by a minority argument, viewed as important by those who espouse it. The minority is then free to express its view through comments added to the report, subject to the following conditions.
- 4.3.4-1 Before deciding to attach additional comments, the proponent(s) shall make a good-faith effort to persuade the Committee to adjust the main report to accommodate the minority view.
- 4.3.4-2 The authors of additional comments shall be named.
- 4.3.4-3 The additional comments shall deal with the subject of the report itself, and not be used as a vehicle for extraneous views. Any disagreement on the relevance of the remarks shall be resolved by a majority of those present at the meeting.
- 4.3.4-4 The additional comments shall be made available to the Committee as early as possible in the deliberations, both as part of the good-faith effort described above, and to provide an opportunity for others so inclined to join the original author(s).
- 4.3.4-5 There will be times in which the report is generated so late in the meeting that full discussion of the proposed additional remarks is precluded by time constraints. The author must then announce to the Committee his intent to submit additional remarks, indicate to the Committee the nature of the remarks, and must have the text to the Committee office by noon (Washington time) on the Monday following the meeting, whether through telephone dictation, BBS, FAX, or other means.
- 4.3.4-6 Any member who was present at the meeting may ask at that time to see or hear the exact wording of the additional remarks

as soon as they are available, and has until noon (Washington time) on the Tuesday following the meeting to add his name to the remarks. Members not present have not heard the debate, and may not add their approval to either the report or the additional remarks.

- 4.4 There will be occasions on which a member feels a subject is of safety significance, but is unable to persuade the majority of the Committee that it warrants a Committee report. In such cases, the vehicle for dissent that is provided above is of no value, yet a subject deemed of safety significance to a member of the Committee ought not to be left unaddressed. In such cases, the member should make a good-faith effort to persuade the Committee to take action, whether by writing a report on the subject, or by directing a Subcommittee to conduct an exploration. If the Committee decides to do neither, or if the member involved feels that the importance of the subject warrants prompt action, he is then free to write an individual report on the subject. Such a report should clearly state, up front, that the member is not speaking for the Committee, and that the Committee has declined to act to his satisfaction on the subject. A member using this mechanism should make every effort to apply the same professional standards to his individual communication as is fair to expect from the Committee as a whole. The Committee in turn will make every effort to protect members' opportunities to address individual views.
- 4.5 When, owing to restrictions such as possible conflict of interest, any Committee member has disqualified himself from participation in a matter, this circumstance should be noted in the final ACRS report.
- 4.6 A factual summary statement of Committee activities at any scheduled meeting will be prepared by the ACRS Chairman, and furnished to the Chairman of the Commission.
- 4.7 When ACRS comments are requested by the NRC staff on specific safety-related matters, and the full Committee does not plan to take action, comments of individual members may be transmitted to the appropriate NRC offices by a forwarding memo from the ACRS Executive Director. Any comments to be transmitted in this manner are to be approved by the ACRS Chairman, and copies provided to the full Committee for information.

5 SUBCOMMITTEES

- 5.1 The Committee is organized around a number of topical and project Subcommittees whose purpose is to obtain, analyze, and organize information for the consideration of the full Committee. A Subcommittee may also recommend a particular course of action to the full Committee, which is not bound thereby.
- 5.2 In addition, a standing Subcommittee on Planning and Procedures shall have the responsibility to evaluate the priorities in the ACRS workload, to distribute resources appropriately, and to recommend to the Committee both long-term and short-term goals and Committee practices and procedures. The membership of this Subcommittee will be:
- The current ACRS Chairman
 - The current ACRS Vice Chairman
 - A Member-at-Large, elected to serve concurrently with the ACRS Chairman
 - The Executive Director of the ACRS
- The ACRS Chairman shall serve as Chairman of this Subcommittee. If the Member-at-Large becomes unavailable for an extended period (typically more than two months), the Committee will elect a replacement at its next regular meeting. Procedures for replacement in the event of vacancies in the ex officio billets are covered elsewhere in these Bylaws.
- 5.3 Though not part of the formal Subcommittee structure, each member is encouraged to adopt one or more plants, that he may visit from time to time to maintain familiarity with their features and operating personnel.
- 5.4 Major reform of the Subcommittee structure is normally the responsibility of the Planning and Procedures Subcommittee, subject to full Committee approval.
- Changes to the Subcommittee membership and tasks, and establishment of ad hoc Subcommittees to review specific issues or licensing applications, are the responsibility of the ACRS Chairman.
- 5.5 Each Chairman shall, within three months of taking office, review the number, responsibilities and member-

ship of the ACRS Subcommittees, and the workload balance among the members. In this task, he shall consult as needed the outgoing Chairman and the Executive Director. He shall provide the Committee with a list of his proposed changes, if any, before the end of that period.

- 5.6 In compliance with FACA, Subcommittee meetings that are devoted to fact-finding, analysis, and preparation of position papers (virtually all Subcommittee meetings) need not be public. The Committee's practice, however, is to open nearly all its Subcommittee meetings to public attendance. The Committee has the responsibility to make available to the public, consistent with FACA and the FOIA, the information on which its later decisions and reports are based.
- 5.7 Any two members of the full Committee will constitute a quorum for any Subcommittee meeting, whether or not they are currently listed as members of the Subcommittee. No single member shall function as a Subcommittee, although individual members may often collect information on behalf of either a Subcommittee or the full Committee.
- 5.8 The Subcommittee Chairman has both the authority and the responsibility to maintain order and decorum and may, at his option, recess the meeting until a later time if these are threatened. He may also order the ejection of any person who speaks without recognition by the Chair, who addresses subjects not under discussion by the Subcommittee, or who otherwise interferes with the orderly conduct of the Subcommittee's business.

6 APPOINTMENT OF MEMBERS

- 6.1 The members of the Committee are appointed by the Commission, which thereby determines the size of the Committee (up to the statutory maximum). The Committee will usually make an input to this process by soliciting nominations, evaluating candidates, and making recommendations to the Commission, which has the final authority. The term of an appointment to the Committee is four years, and the Commission has ruled (with some grandfathering at the time) that no member may serve more than three consecutive terms.
- 6.2 The criteria used by the Committee to evaluate candidates include education and experience, demonstrated skill in nuclear safety matters, the balance of the Committee in relation to the tasks that lie ahead, availability to serve, and possible conflicts of interest. Extraneous factors, such as race, sex, religion, color, national origin, political affiliation, age, marital status, or irrelevant physical handicap will not be considered. If the vacancy is caused by the conclusion of a member's term, and that member is eligible for (and desires) reappointment, he will be considered in parallel with all new applicants.

7 ELECTION OF OFFICERS

- 7.1 The Committee Chairman and Vice Chairman shall be elected to serve for one year, commencing on January 1 and ending on December 31 or until their successors are elected. Either or both may be reelected to serve no more than one additional consecutive one-year term. Either or both are subject to recall by a vote of two-thirds of the Committee members. Any motion for recall shall be made, seconded and discussed during one meeting, and voted upon at the next meeting.
- 7.2 In the event the Chairman is unable or unavailable to carry out his duties for a limited period, the Vice Chairman shall act as Chairman. In the event the Vice Chairman is unable or unavailable to carry out his duties for a limited period, the Chairman may appoint another member to act as Vice Chairman. A "limited period" is generally considered to be two months or less.
- 7.3 The line of succession for Committee officers is Chairman, Vice Chairman, and Member-at-Large of the Planning and Procedures Subcommittee. If either of the first two is no longer available to continue to serve, those next in line will move up in the succession. A special election will then be held to fill the resulting vacancy, using the procedure described below.

7.4 Regular Elections

The Committee Chairman and Vice Chairman for the following year shall be elected during the last regularly scheduled meeting of each year.

The Chairman shall be elected by a numerical majority of the current membership using a secret ballot, with all members as candidates. A member may withdraw his name from consideration by written notice to the Executive Director, no later than two weeks before the scheduled election. A current Chairman in his second consecutive one-year term shall be ineligible. If no candidate receives a numerical majority on the first ballot, a second ballot shall be taken using the three candidates (or more in case of a tie) receiving the most votes on the first ballot. If needed, additional ballots shall be taken using the two candidates (or more in case of a tie) receiving the most votes on the previous ballot,

until one candidate is favored by a numerical majority of the current membership. If the Committee agrees that no agreement is possible at the meeting, a Chairman shall be chosen by lot from the most recent list of candidates.

Following the election of the Chairman, the Vice Chairman shall be elected using the same process.

Absentee votes naming one member for Chairman and one for Vice Chairman shall be accepted and applied to each respective ballot taken. If they name a member eliminated from consideration by the foregoing procedure, they shall be discarded.

Following election of the Chairman and Vice Chairman, the nomination and election of a Member-at-Large to fill the vacancy on the ACRS Planning and Procedures Subcommittee will also occur. Nominations will be made from the floor by the Committee members.

7.5

Special Elections

In the event that a special election is required under the terms of 7.3, above, it shall be held at the earliest regularly scheduled meeting following the announced need to fill the position(s). The election shall be conducted in accordance with the terms of 7.4, above.

8 CONDUCT OF MEMBERS

- 8.1 Though not explicitly constrained to do so by the enabling legislation, the Committee has historically functioned as a collegial body, focusing the members' disparate views into a common position. For this reason it is inappropriate for an individual member to attempt to interpret Committee reports, recommendations, or actions, except as authorized by the Committee.

Individual members are always free, as individuals, to interact and communicate with individual Commissioners. This channel will normally, but not always, be opened by the relevant Commissioner seeking information, and it should always be clear that the member is not representing the Committee, but is functioning as an independent expert. Such contacts, where substantive, should be noted to the Chairman or to the Executive Director.

It is inappropriate for a member to use the latitude provided in the previous paragraph to undermine a declared Committee position.

- 8.2 Where requests for interpretation of ACRS positions are received from outside agencies, judgment should be used. Requests from the Congress should normally be honored by referral to the Executive Director. Where an individual member is asked for his views, he should respond, but with emphasis on the fact that he speaks for no one else. Requests from the media require more circumspection. The guiding principle is that a member should not undermine or reinterpret a Committee position, but is under no obligation to pretend that he agrees, if he doesn't. The right to disagree does not imply the right to reinterpret.

- 8.3 When an individual member has a safety-related concern that is not being considered by the Committee, he should recommend ACRS action by use of the procedures in Section 4.4 of these Bylaws. The ACRS staff will support related activities on the part of the member, such as developing related information, consistent with normal staff activities.

If the Committee decides not to take a position on the identified issue, the member is free to air his opinions

on the matter, but should make it known that the opinions stated are his own and not those of the ACRS.

A member pursuing a safety matter that is either not currently under review by the Committee, or on which his views differ from those of the majority, is entitled to staff support, subject to normal office priorities. Clearly, Committee matters have the highest priority, and a member may sometimes feel that he is getting inadequate support on a subject he deems important. In such matters, he should appeal to the Chairman, and, in extreme cases, to the Committee. Normally, the Executive Director will arrange staff priorities consistently with the guidance provided by the Chairman.

If the Committee examines an identified concern and reaches a conclusion with which a member disagrees, the preferred channel to express disagreement with ACRS reports is through additional comments to the Committee report. Members are discouraged from undermining the collegial position taken by the ACRS, but are free to express their professional opinions as they additionally and personally judge the issue, always emphasizing that they speak for themselves. The ACRS staff will provide support to individual members within the context of normal Committee business.

8.4

If a member feels that he may have a conflict of interest with regard to a subject to be addressed by the Committee, he should mention it as early as possible, but in any case before he participates in the discussion. The Committee will comply with all applicable laws and NRC regulations.

It should be noted that prior work on a subject under review, even when undertaken for another agency or organization, does not represent a conflict of interest per se, but should be revealed to the Committee, on the record. The degree to which this earlier work compromises the member's impartiality will be determined by the Committee on a case-by-case basis. On the rare occasions in which the Committee's proposed action implies a judgment of the quality of that earlier work, it is a matter of professional ethics that the member not vote.

8.5

In the course of his tenure on the Committee, a member will be sent many documents, and will discard most of them when their burden exceeds their utility. At the end of his tenure on the Committee, he will be expected to discard or return the remaining documents. Though technically government property, few, if any, will have

any residual value. Any doubtful cases will be resolved by the Executive Director.

8.6 Members (who are appointed as Special Government Employees) are expected to conform to all Federal regulations applicable thereto, as well as to the relevant NRC rules and regulations. They are also expected to meet the highest professional standards of integrity, as well as competence.

8.7 A member will often request that the ACRS staff provide him with additional information on a safety matter, either to supplement the information developed at a meeting, or for other relevant reasons. The staff will normally honor such requests, but when unreasonable amounts of staff time are involved, the Executive Director will so notify both the Chairman and the member. If no amicable solution can be achieved, the Chairman's decision shall be binding, subject to appeal to the full Committee. A decision of this sort is not a major decision.

9 MINUTES

- 9.1 The ACRS office will prepare minutes of all ACRS meetings, including Subcommittee meetings.
- 9.2 When factual information with potential archival value is being presented to the Committee or to a Subcommittee, during a meeting that is open to public attendance, the presentation will normally be transcribed. Deliberative sessions will normally not be transcribed.
- 9.3 A working copy of the minutes will be prepared by the cognizant ACRS staff engineers, and made available as soon as practicable to the Chairman of the full Committee or Subcommittee, and to other members. After review, and preferably within a month, the minutes will be certified by the full Committee or Subcommittee Chairman, as appropriate. By certifying the minutes, the cognizant Chairman attests to the best of his knowledge to the completeness and technical accuracy of the minutes.
- 9.4 Copies of the certified minutes will normally be distributed to the ACRS members and to Committee consultants when appropriate. They will then be forwarded to the Public Document Room, with only those deletions required by law.

10 COMMITTEE STAFF

- 10.1 The ACRS staff shall consist of an Executive Director and those technical, administrative, secretarial, and clerical personnel necessary to effectively support the Committee's activities. The Executive Director, or his delegate, will serve as the Designated Federal Official for all Committee and Subcommittee meetings. The Executive Director is also responsible for the management of the staff.

11 CONSULTANTS

- 11.1 The Committee will occasionally find it desirable to augment its expertise with respect to specific disciplines. It will therefore maintain a list of available consultants, and will call upon them as needed, most often at the Subcommittee level. Consultants attending a Subcommittee meeting will usually participate fully in the discussion.
- 11.2 Consultants' written reports to the ACRS office of their activities and views will be distributed to the interested ACRS members. Distribution outside the ACRS will normally be made to the affected NRC staff and to the Public Document Room.
- 11.3 In many fields the number of experts is limited, and the Committee may occasionally make use of consultants already helping the NRC staff. When, conversely, the NRC staff makes use of an ACRS consultant on a matter the Committee has under consideration, further use of him by the ACRS may compromise the Committee's apparent independence. Such matters will be addressed as they occur, using the criteria described in the Preamble.

12 AMENDMENTS

- 12.1 Any member of the Committee may propose an amendment to these Bylaws. The proposed amendment will be distributed to the members by the Executive Director, and scheduled for discussion at the next regular Committee meeting.
- 12.2 The final proposed amendment may be voted on not earlier than the first regular meeting after it has been presented to the full Committee.
- 12.3 A vote of two-thirds of the current ACRS membership shall be required to approve an amendment.

Revised: January 25, 1996

U.S. NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON NUCLEAR WASTE
BYLAWS

PREAMBLE

These Bylaws describe the functions of the Advisory Committee on Nuclear Waste (ACNW), the procedures to be used in performing its duties, and the responsibilities of the members. The Committee reports to and advises the Nuclear Regulatory Commission (NRC) on nuclear waste management, as directed by the Commission on the basis of periodic reviews of ACNW proposals. This includes 10 CFR Parts 60 and 61 and the implementation of other applicable regulations and legislative mandates such as the Nuclear Waste Policy Act, the Low-Level Radioactive Waste Policy Act, and the Uranium Mill Tailings Radiation Control Act, as amended.

The primary emphasis is on disposal facilities. In performing its work, the Committee examines and reports on those areas of concern referred to it by the Commission or its designated representatives, and will undertake other studies and activities on its own initiative related to those issues as directed by the Commission. The Committee will interact with representatives of NRC, the Advisory Committee on Reactor Safeguards (ACRS), other Federal agencies, State and local agencies, Indian Nations, private organizations, etc., as appropriate to fulfill its responsibilities.

All the following has as its purpose fulfillment of the Committee's responsibility to provide objective and independent advice to the Commission on matters affecting nuclear waste, and the procedures are intended to make certain that the inputs to that advice are fairly, openly, and adequately obtained and considered, that the members and the affected parties have an adequate chance to be heard, and that the resulting reports represent, to the extent possible, the best of which the Committee is capable. Any ambiguities in the following should be resolved in such a way as to support those objectives. Any internal conflicts of interpretation shall be decided by majority vote of the current membership of the Committee.

For parliamentary matters not explicitly addressed in these Bylaws, Robert's Rules of Order shall govern.

1 MEETING

- 1.1 A regular meeting schedule will be set by the Committee at the beginning of each Calendar Year. The Chairman, or in his/her absence the Vice Chairman, shall preside over the meeting.
- 1.2 In unusual circumstances, special meetings may be scheduled on call of the Chairman or, in his/her absence, the Vice Chairman. A majority of the members of the Committee may also direct that the Executive Director schedule a special meeting.
- 1.3 ACNW meetings will be open to public attendance, except for those portions in which matters are to be discussed that are exempt from public disclosure under the Federal Advisory Committee Act (FACA) or other appropriate rules or statutes. Active participation in the meeting is normally confined to:
- Members of the Committee
 - ACNW staff members
 - ACNW consultants, or others assisting the Committee, as needed
 - NRC staff and its consultants, as needed
 - Licensees and applicants, representatives of other agencies, and their consultants and contractors, as needed
 - Members of the public in accordance with FACA
 - Other persons with the consent of the Chairman
- 1.4 The Chairman has both the authority and the responsibility to maintain order and decorum, and may, at his/her option, recess the meeting if these are threatened. He/she may also order the removal of any person who speaks without recognition by the Chair, who addresses subjects not under discussion by the Committee, or who otherwise interferes with the orderly conduct of the Committee's business.
- 1.5 During those portions of a meeting open to the public, electronic recording of the proceedings is permitted. Television recording of the meeting will be permitted, to the extent that it does not interfere with the proper conduct of Committee business.

MEETING AGENDA

- 2.1 The meeting agenda is determined by the Chairman (in the case of Working Group meetings, the Working Group Chairman) in consultation with the Executive Director. Potential agenda items will normally be suggested by the Commission, individual Committee members, and the staff.
- 2.2 Except in unusual circumstances, the Committee will not review matters brought to it by the NRC Staff unless documentation adequate to support a responsible review is provided to the members in a timely fashion.
- 2.3 In the absence of the documentation required in Article 2.2, an urgent staff item may be placed on the agenda only with the approval of the Committee Chairman.
- 2.4 Issues may come to the attention of the Committee through a variety of mechanisms, including self-generation. Whatever the source, review may be through any appropriate mechanism, including but not limited to, placement on a meeting agenda, referral to a consultant for evaluation, referral to a scheduled Working Group, or creation of an ad hoc Working Group.
- 2.5 Information items, and items of general interest, may be placed on the agenda by the Chairman.
- 2.6 In unusual situations where a member expects to be absent during a meeting and desires that a project be deferred to the following meeting, the member may request a delay upon showing, sufficiently in advance of the meeting so as not seriously to disrupt scheduling, that the reasons for the delay are compelling. A majority of the Committee is needed to approve the request. Approval may be by telephone poll between meetings, if required. As an alternative to deferral, the possibility of rescheduling the regular meeting or holding a special meeting can be implemented through timely approval by the Committee.

3 CONDUCT OF MEETINGS

- 3.1 The scheduling and conduct of ACNW meetings will be in accordance with the Federal Advisory Committee Act, as amended, implementing NRC Rules and Regulations, and other relevant legislation.
- 3.2 A quorum for a meeting of the full Committee consists of a minimum of more than half the current membership. Decisions shall be made by a majority of those present, except that major decisions shall only be made by a majority of the current membership. Should one or more members be unavailable for compelling reasons (such as extended incapacity or recusal), the current membership shall be regarded as reduced accordingly. A decision to finally approve any report to the Commission is a major decision. If there is doubt whether a decision is major, the Chairman shall rule, subject to reversal by the Committee. Such reversal shall be treated as a major decision.
- 3.3 The Chairman may take part in the discussion of any subject before the Committee, and may vote on any subject. He/she should not use the power of the Chair to bias or otherwise limit the discussion, but should use that power to keep the meeting approximately on schedule.
- 3.4 When a consensus appears to have developed on a matter under consideration, the Chairman may ask one or more members to draft a report stating the Committee's tentative position. In so doing, he/she may state or summarize that position for the benefit of the members and others present. However, it should be emphasized that no Committee position is final or binding until it has been formally endorsed by the Committee members, and a report written and approved.

4 REPORTS

- 4.1 For those matters in which an ACNW report is required before Commission action, an affected party (e.g., licensee, other Federal agency, or intervenor) will normally be provided the opportunity to discuss the matter with the Committee before the report is issued.
- 4.2 Unless matters coming under the FACA exemptions are involved, Committee reports will be prepared in public session. Nonetheless, the deliberations involved are predecisional, and no detailed record will normally be kept of the intermediate steps involved in coming to a decision.
- 4.3 Once a report is finally approved by the Committee, it shall be issued as expeditiously as possible, unchanged, with the following exceptions:
- 4.3.1 The cognizant Working Group Chairman should review final ACNW reports for clarity and grammatical correctness but may not make changes that alter the intent of the Committee. If he/she has doubts regarding a proposed change, he/she must seek approval from the Committee before making the change.
- 4.3.2 If, in the judgment of the Chairman, a report contains a serious misstatement or error of fact, and that possible error was not addressed by the Committee before final approval, the Chairman is authorized to recommend deferral of the matter until the next meeting. The Committee staff will then conduct a telephone poll of as many as possible of the members who participated in the preparation of the report, explaining the issue as fairly as they can. If a majority of those participants agree with the Chairman, the report shall be so deferred.
- 4.3.3 In cases of time urgency, a rewording may be accomplished through collegial interaction, as, for example, through a special meeting or a conference call.
- 4.3.4 Committee reports will normally reflect collegial views, and unanimity will often be achieved. Nonetheless, there will be occasions in which the majority is unconvinced by a minority argument, viewed as important by those who espouse it. The minority is then free to express its view through comments added to the report, subject to the following conditions:
- 4.3.4.1 Before deciding to attach additional comments, the

proponents shall make a good-faith effort to persuade the Committee to adjust the main report to accommodate the minority view.

- 4.3.4.2 The authors of additional comments shall be named.
- 4.3.4.3 The additional comments shall deal with the subject of the report itself, and not be used as a vehicle for extraneous views. Any disagreement on the relevance of the remarks shall be resolved by a majority of those present at the meeting.
- 4.3.4.4 The additional comments shall be made available to the Committee as early as possible in the deliberations, both as part of the good-faith effort described above, and to provide an opportunity for others so inclined to join the original author(s).
- 4.3.4.5 There will be times in which the report is generated so late in the meeting that full discussion of the proposed additional remarks is precluded by time constraints. The author must then announce to the Committee his/her intent to submit additional remarks, indicate to the Committee the nature of the remarks, and have the text to the Committee office by noon (Washington time) on the third working day following the meeting, whether through telephone dictation, BBS, FAX, or other means.
- 4.3.4-6 Any member who was present at the meeting may ask at that time to see or hear the exact wording of the additional remarks as soon as they are available, and has until noon (Washington time) on the day following receipt of those remarks to add his/her name to the remarks. Members not present have not heard the debate, and may not add their approval to either the report or the additional remarks. There will be occasions on which a member feels a subject is of safety significance, but is unable to persuade the majority of the Committee that it warrants a Committee report. In such cases, the vehicle for dissent that is provided above is of no value, yet a subject deemed of safety significance to a member of the Committee ought not to be left unaddressed.

In such cases, the member should make a good-faith effort to persuade the Committee to take action, whether by writing a report on the subject, or by directing a Working Group to conduct an exploration. If the Committee decides to do neither, or if the member involved feels that the importance of the subject warrants prompt action, he/she is then free to write an individual report on the subject. Such a report should clearly state, at the beginning, that the member is not speaking for the

Committee, and that the Committee has declined to act to his/her satisfaction on the subject. A member using this mechanism should make every effort to apply the same professional standards to his/her individual communication as is expected from the Committee as a whole. The Committee in turn will make every effort to protect members' opportunities to address individual views.

- 4.5 When, owing to restrictions such as possible conflict of interest, any Committee member has disqualified himself or herself from participation in a matter, this circumstance shall be noted in the final ACNW report.
- 4.6 A factual summary statement of Committee activities at any scheduled meeting will be prepared by the ACNW Chairman or his/her designee, and furnished to the Chairman of the Commission.
- 4.7 When ACNW comments are requested by the NRC staff on specific matters, and the full Committee does not plan to take action, comments of individual members may be transmitted to the appropriate NRC offices by a forwarding memo from the ACNW Executive Director. Any comments to be transmitted in this manner are to be approved by the ACNW Chairman, and copies provided to the full Committee for information. The following sentence must be added to the text of such comments: "These comments are not to be construed or stated as Committee views."
- 4.8 Requests for reports or other support of the ACNW requiring a substantial effort by the NRC Staff should be approved by the ACNW Chairman and, when he/she considers it appropriate, discussed with the full Committee before they are transmitted to the NRC Staff, except in those cases where they are in direct support of a request from the Commission. In the latter cases, they need no discussion.
- 4.9 When it is anticipated that the Committee will write a report at a particular meeting, a designated member should prepare either a proposed draft report or a Statement of Issues. These should be available far enough in advance so that they can be used by the Committee in formulating its advice.
- 4.10 Requests by individual ACNW members for additional information from the NRC Staff or others appearing before the Committee will be listed and identified by an asterisk in the draft of "Actions, Agreements, Assignments, and Requests," which is provided to the

members following each Committee meeting. If the member who made the request wishes that the request be contained in the final version sent to the NRC Staff for follow-up action, he/she should confirm this in writing by a note to the Chairman or his/her designee.

5 WORKING GROUPS

- 5.1 The ACNW may form ad hoc Working Groups for specific purposes or for review of generic issues. No permanent Working Groups are authorized. Working Groups shall consist of at least two members, one of whom is designated as Chairman of the Working Group by action of the Chairman of the ACNW. Individual members may be authorized by the Committee to gather information, using resources as approved by the Committee.
- 5.2 At the time an ad hoc Working Group is formed, a specific charge/charter shall be prepared and approved by the Committee. The Working Group is required to conduct its affairs within that charter. All Working Groups are required to submit to the ACNW reports related to their charge/charter. All ad hoc Working Groups are automatically dissolved upon acceptance of their final report by the full ACNW.
- 5.3 The scheduling and conduct of meetings of Working Groups shall be in accordance with the procedures outlined in the Federal Advisory Committee Act, as amended, and other implementing instructions and regulations.
- 5.4 Any Committee Member may attend Working Group meetings and be counted for the purpose of establishing a quorum. A Working Group meeting may not begin until a quorum of at least two ACNW Members is present.
- 5.5 It may be appropriate from time to time to rotate the Chairmen of ACNW Working Groups in order to provide a more balanced workload and input by all ACNW Members. Each Chairman shall, within three months of taking office, review the number, responsibilities, and membership of the ACNW Working Groups, and the workload balance among the members. In this task, the Chairman shall consult as needed the outgoing Chairman and the Executive Director and shall provide the Committee with a list of proposed changes, if any, before the end of the three-month period. A two-year cycle will be the normal basis for changing assignments.
- 5.6 The full Committee or a Working Group shall, from time to time, discuss the priority of ACNW work, the assignment of appropriate resources, and setting of both near- and long-term goals. If a Planning Working Group is established for this purpose, it shall be composed of the Chairman, the Vice Chairman, an ACNW Member, and the Executive Director.

6 APPOINTMENT OF MEMBERS

- 6.1 The members of the Committee are appointed by the Commission. The Committee will usually make an input to this process by soliciting nominations, evaluating candidates, and making recommendations to the Commission, which has the final authority. The term of an appointment to the Committee is four years and the terms are staggered so a new member is appointed each year. It is Commission policy that no member may serve more than two consecutive terms.
- 6.2 The criteria used by the Committee to evaluate candidates include education and experience, demonstrated skill in nuclear waste management, disposal, and safety matters, the balance of the Committee in relation to the tasks that lie ahead, availability to serve, and possible conflicts of interest. Extraneous factors, such as race, sex, religion, color, national origin, political affiliation, age, marital status, or irrelevant physical handicap will not be considered. If the vacancy is caused by the conclusion of a member's term, and that member is eligible for (and desires) reappointment, he/she will be considered on an equal basis with all new applicants.
- 6.3 Candidates' applications are reviewed by a screening panel composed of a full-time Federal employee representing the Committee, a representative of the Commission, and a full-time nonNRC Federal employee selected by the Commission, who possesses the expertise/skills being sought. The panel will rank the best qualified candidates and submit a copy of its report identifying the criteria and rationale for the best qualified ranking to the Commission and to the Committee. The Committee should submit its own selection recommendations to the screening panel and/or the Commission.

After receipt of the recommendations of the Committee and the panel, the Commission will make a tentative selection, pending a conflict-of-interest review by the Office of the General Counsel (OGC) and a review by the Office of Personnel (OP). If OGC and OP determine that the nominee meets all legal and personnel (security) requirements, the NRC Chairman will officially notify the nominee that he/she has been appointed to the Committee.

7 ELECTION OF OFFICERS

- 7.1 The Committee Chairman and Vice Chairman shall be elected to serve for one year, commencing on July 1 and ending on June 30. Either or both may be reelected to serve no more than one additional consecutive term at the discretion of the Committee. Either or both are subject to recall by a vote of two-thirds of the Committee Members. The motion for recall shall be made, seconded and discussed during one meeting, and voted upon at the next meeting. The Committee may eliminate the position of Vice Chairman upon two-thirds vote. Reinstitution of the office of Vice Chairman by the Committee requires a simple majority vote.
- 7.2 In the event the Chairman is unable or unavailable to carry out his/her duties for a limited period, the Vice Chairman shall act as Chairman. In the event the Vice Chairman is unable or unavailable to carry out his/her duties for a limited period, the Chairman may appoint another member to act as Vice Chairman. A "limited period" is generally considered to be two months or less.
- 7.3 In the event that either the Chairman or the Vice Chairman (or both) is (are) unable to continue to serve beyond a limited time, a special election will be held to fill the position(s) for the remainder of the term(s).

7.4 Regular Elections

The Committee Chairman and Vice Chairman for the following year shall be elected during the last regularly scheduled meeting prior to June 30th.

The Chairman shall be elected by a numerical majority of the current membership using a secret ballot, with all members as candidates. A member may withdraw his/her name from consideration by written notice to the Executive Director, no later than two weeks before the scheduled election. If no candidate receives a numerical majority on the first ballot, a second ballot shall be taken using the three candidates (or more in case of a tie) receiving the most votes on the first ballot. If needed, additional ballots shall be taken using the two candidates (or more in case of a tie) receiving the most votes on the previous ballot, until one candidate is favored by a numerical majority of the current membership. If the Committee agrees that no agreement is possible at the meeting, a Chairman shall be chosen by lot from the most recent list of candidates. Following

the election of the Chairman, the Vice Chairman shall be elected using the same process.

Absentee votes naming one member for Chairman and one for Vice Chairman shall be accepted and applied to each respective ballot taken. If they name a member eliminated from consideration by the foregoing procedure, they shall be discarded.

7.5

Special Elections

In the event that a special election is required under the terms of 7.3, above, the Chairman or Vice Chairman (whichever office is not at stake in the election) shall serve as Chairman for the nomination and election process. If both are at stake, the next most recent available Chairman shall act as Chairman until the election is completed. The nomination of candidates will be done at the next regularly scheduled meeting. Officers will then be elected at the following regularly scheduled meeting.

8 CONDUCT OF MEMBERS

- 8.1 Though not explicitly constrained to do so, the Committee is intended to function as a collegial body, focusing the members' disparate views into a common position. For this reason it is inappropriate for an individual member to attempt to interpret Committee reports, recommendations, or actions to others, except as authorized by the Committee.

Individual members are always free, as individuals, to interact and communicate with individual Commissioners. This channel will normally, but not always, be opened by the relevant Commissioner seeking information, and it should always be clear that the member is not representing the Committee, but is functioning as an independent expert. Such contacts, where substantive, should be noted to the Chairman and to the Executive Director.

It is inappropriate for a member to use the ability to interact with individual Commissioners on an individual basis, as noted above, to be an advocate in opposition to a declared Committee position. Such opposition must be taken through additional remarks appended to a Committee communication.

- 8.2 Where requests for interpretation of ACNW positions are received from outside agencies, judgment should be used in responding. Requests from the Congress should be honored by referral to the Executive Director. Where an individual member is specifically asked for his/her views, he/she should respond, but with emphasis on the fact that he/she speaks for no one else. Requests from the media require more circumspection. The guiding principle is that a member should not undermine or reinterpret a Committee position, but is under no obligation to pretend that he/she agrees, if he/she does not. The right to express disagreement does not include the right to reinterpret.

- 8.3 When an individual member has a safety-related concern that is not being considered by the Committee, he/she should recommend ACNW action by use of the procedures in Section 4.4 of these Bylaws. The ACNW staff will support related activities on the part of the member, such as developing related information, consistent with normal staff activities.

If the Committee decides not to take a position on the identified issue, the member is free to air his/her

opinions on the matter, but should make it known that the opinions stated are his/her own and not those of the ACNW. The ACNW Staff will support related activities only to the extent necessary to solicit consideration by the ACNW.

A member pursuing a safety matter that is either not currently under review by the Committee, or on which his/her views differ from those of the majority, is entitled to staff support, subject to normal office priorities. Clearly, Committee matters have the highest priority, and a member may sometimes feel that he/she is getting inadequate support on a subject he/she deems important. In such matters, he/she should appeal to the Chairman, and, in extreme cases, to the Committee. Normally, the Executive Director will arrange staff priorities consistent with the guidance provided by the Chairman.

If the Committee examines an identified concern and reaches a conclusion with which a member disagrees, the preferred channel to express disagreement with ACNW reports is through additional comments to the Committee report. Members are generally discouraged from taking a position that damages the collegial or consensus position taken by the ACNW unless important and basic considerations force such a disagreement. They are, however, free to express their professional opinions as they additionally and personally judge the issue, always emphasizing that they speak for themselves. The ACNW staff will provide support to individual members within the context of normal Committee business. A member who believes that he/she has not obtained satisfactory attention/action by the usual procedures regarding items of concern (e.g., identification of items for consideration by the Committee or by a designated Working Group) should write a letter to the ACNW Chairman describing the concern, the basis for it (to the degree practicable), and a proposed course of action (to the degree he/she is able). The Chairman will then assign the matter for discussion before the full Committee or take such other action as he/she deems appropriate to evaluate and resolve the issue.

8.4

If a member feels that he/she may have a conflict of interest with regard to a subject to be addressed by the Committee, he/she should mention it as early as possible, but in any case before he/she participates in the discussion. The Committee will comply with all applicable laws and NRC regulations.

It should be noted that prior work on a subject under

review, even when undertaken for another agency or organization, does not represent a conflict of interest per se, but should be revealed to the Committee, on the record. The degree to which this earlier work compromises the member's impartiality will be determined by the Committee on a case-by-case basis. On the rare occasions where the Committee's proposed action implies a judgment of the quality of that earlier work, it is a matter of professional ethics that the member not vote.

- 8.5 In the course of his/her tenure on the Committee, a member will be sent many documents, and will discard most of them when their burden exceeds their utility. At the end of his/her tenure on the Committee, he/she will be expected to discard or return the remaining documents. Though technically government property, few, if any, will have any residual value. Any doubtful cases will be resolved by the Executive Director.
- 8.6 Members (who are appointed as Special Government Employees) are expected to conform to all Federal regulations applicable thereto, as well as to the relevant NRC rules and regulations. They are also expected to meet the highest professional standards of integrity, as well as competence.
- 8.7 A member will often request that the ACNW staff provide him/her with additional information on a safety matter, either to supplement the information developed at a meeting, or for other relevant reasons. The staff will normally honor such requests, but when unreasonable amounts of staff time are involved, the Executive Director will so notify both the Chairman and the member. If no amicable solution can be achieved, the Chairman's decision shall be binding, subject to appeal to the full Committee. A decision of this sort is not a major decision.

9 MINUTES

- 9.1 The ACNW office will prepare minutes of all ACNW meetings, including Working Group meetings.
- 9.2 When factual information with potential archival value is being presented to the Committee or to a Working Group, during a meeting that is open to public attendance, the presentation will normally be transcribed. Deliberative sessions will normally not be transcribed.
- 9.3 A working copy of the minutes will be prepared by the cognizant ACNW staff engineer/scientist, and made available as soon as practicable to the Chairman of the full Committee or Working Group, and to other members. After review, and preferably within a month, the minutes will be certified by the full Committee or Working Group Chairman, as appropriate. By certifying the minutes, the cognizant Chairman attests to the best of his/her knowledge to the completeness and technical accuracy of the minutes.
- 9.4 Copies of the certified minutes will normally be distributed to the ACNW members and to Committee consultants when appropriate. They will then be forwarded to the Public Document Room, with only those deletions required by law.

10 GUIDELINES FOR MEMBERS WITH LIMITED AVAILABILITY

- 10.1 The members should only undertake those Committee assignments, including designation as Working Group Chairman and Working Group Member, that he/she can handle effectively in the time he/she has available to devote to ACNW activities.
- 10.2 In the event a member anticipates an extended period (e.g., in excess of six months) when his/her ACNW service will be limited or there will be infrequent attendance at full Committee meetings and Working Group meetings, he/she should bring this to the attention of the Committee so that an understanding can be reached regarding his/her continued participation, assignments, etc., as an ACNW member.
- 10.3 If a member has a particular interest in subject matter which is appropriate for consideration during a Working Group or full Committee meeting, he/she should notify the Staff far enough in advance so that necessary arrangements can be made to explore this area effectively during the meeting.
- 10.4 Although an occasional meeting might be scheduled near a member's normal duty station to accommodate his/her availability, this should not be a regular practice, and he/she should take into account the burden this places on other members of the Committee and on the supporting NRC and ACNW Staff.

11 COMMITTEE STAFF

- 11.1 The ACNW staff shall consist of an Executive Director and those technical, administrative, secretarial, and clerical personnel necessary to effectively support the Committee's activities.
- 11.2 The Executive Director, or his/her delegate, will serve as the Designated Federal Official for all Committee and Working Group meetings. The Executive Director is also responsible for the management, assignments, and evaluation of the ACNW staff.

12 CONSULTANTS

- 12.1 The Committee may find it desirable to augment its expertise with respect to specific disciplines. It will therefore maintain a list of available consultants, and will call upon them as needed, most often at the Working Group level. Consultants attending a Working Group meeting will usually participate fully in the discussion.
- 12.2 Consultants' written reports to the ACNW office of their activities and views will be distributed to the interested ACNW members. Distribution outside the ACNW will normally be made to the affected NRC staff and to the Public Document Room.
- 12.3 In many fields the number of experts is limited, and the Committee may occasionally make use of consultants already helping the NRC staff. When, conversely, the NRC staff makes use of an ACNW consultant on a matter the Committee has under consideration, further use of him/her by the ACNW may compromise the Committee's apparent independence. Such matters will be addressed as they occur, using the criteria described in the Preamble.

13 PARTICIPATION IN RULEMAKING ACTIVITIES

The Committee will participate in rulemaking activities in accordance with provisions equivalent to those set forth for the ACRS in 10 CFR 2.809 of the Commission's regulations. When the ACNW decides after discussion to recommend that rulemaking be initiated by the NRC, the matter will be brought to the attention of the Commission. Details concerning ACNW participation in rulemaking activities and other matters will be included in a Memorandum of Understanding between the Chairman of the Committee and the NRC Executive Director of Operations at an appropriate time.

14 BYLAWS APPROVAL AND AMENDMENTS

- 14.1 Approval of the Bylaws requires two-thirds majority of the Committee members. Any member of the Committee may propose an amendment to these Bylaws. The proposed amendment will be distributed to the members by the Executive Director, and scheduled for discussion at the next regular Committee meeting.
- 14.2 The final proposed amendment may be voted on not earlier than the first regular meeting after it has been presented to the full Committee.
- 14.3 A vote of a two-thirds of the current ACNW membership shall be required to approve an amendment.

APPENDIX D
DIVISION OF RESPONSIBILITIES
BETWEEN ACRS AND ACNW



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

July 11, 1990

The Honorable Kenneth M. Carr
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Carr:

SUBJECT: DIVISION OF RESPONSIBILITIES BETWEEN ACRS AND ACNW

We have been informed by the ACRS/ACNW Executive Director that you have requested a joint letter from the Advisory Committee on Reactor Safeguards and the Advisory Committee on Nuclear Waste regarding the division of responsibilities between the ACRS and ACNW related to areas of reactor safety and radioactive waste handling and disposal, respectively.

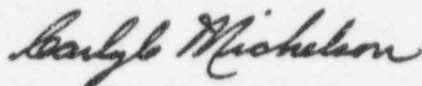
Both the ACRS and ACNW have agreed to the division of responsibilities outlined in your memorandum dated November 6, 1989 to Dr. Forrest J. Remick, then ACRS Chairman, and Dr. Dade W. Moeller, ACNW Chairman, as modified by your memorandum of April 18, 1990 regarding on-site dry cask storage of spent power plant fuel. In addition, both Committees have agreed with the division of specific responsibilities regarding the decommissioning of production and utilization facilities (10 CFR Part 50) as noted in the attached memorandum to you dated February 23, 1990.

Based on the recently modified Charter for the ACNW, it is our understanding that lead responsibility for review of activities associated with on-site handling and disposal of liquid, gaseous, and solid radioactive waste, including on-site storage of spent reactor fuel at production and utilization facilities will be assigned to the ACRS consistent with its other duties related to facilities licensed under 10 CFR Part 50.

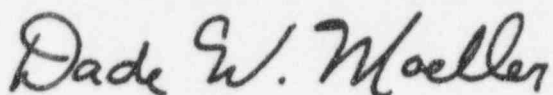
July 11, 1990

Both Committees believe that an adequate interface exists via the combined ACRS/ACNW staff so that each Committee can be sensitive to areas of interest to the other Committee.

Sincerely,



Carlyle Michelson
ACRS Chairman



Dade W. Moeller
ACNW Chairman

Attachment:

Memorandum dated February 23, 1990 for Chairman Carr from R. F. Fraley, Subject: Division of Responsibilities Between ACRS and ACNW



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

February 23, 1990

MEMORANDUM FOR: Chairman Carr

FROM: *R. F. Fraley*
R. F. Fraley, Executive Director, ACRS/ACNW

SUBJECT: DIVISION OF RESPONSIBILITIES BETWEEN ACRS AND ACNW

REFERENCES: (1) ACNW letter dated October 18, 1989,
Subject: Pathfinder Atomic Power Plant
Dismantlement
(2) Letter dated November 16, 1989 from James
Taylor, Acting EDO, for Dade W. Moeller,
ACNW, Subject: ACNW Comments on Pathfinder
Atomic Power Plant Dismantlement

Consistent with your memorandum of November 6, 1989 the ACRS and ACNW have agreed to the attached guidelines to establish an interface in areas of mutual interest/concern, particularly the decommissioning of nuclear facilities.

In connection with 10 CFR Part 50 related items, the ACRS will retain its present lead responsibility throughout the active life of each facility. However, the Committees have agreed to a sharing of responsibilities that would actively involve the ACNW in review of nuclear power plant decommissioning and subsequent phases. At the time of decommissioning, the ACNW would assume lead responsibility for review of the Decommissioning Plan for 10 CFR Part 50 facilities while the ACRS would retain lead responsibility for other aspects of the decommissioning review (e.g., proposed changes in Technical Specifications, plant security provisions, etc.). Once the Decommissioning Plan has been approved, the core has been unloaded, and the "Possession Only" license has been issued, or an equivalent stage has been reached, the ACNW would assume lead responsibility for all aspects of the decommissioning. This is consistent with transfer of regulatory responsibility from NRR to NMSS at an equivalent stage.

This division of responsibility is consistent with the practice established by the ACNW report on Dismantlement of the Pathfinder Atomic Power Plant dated October 18, 1989 (Reference 1) and the EDO plans (EDO memorandum to D. W. Moeller dated November 16, 1989, Reference 2) for the staff to schedule a follow-up meeting on the dismantlement of the Pathfinder Plant.

If you believe that this particular split of responsibilities will unduly complicate the regulation or safety of Part 50 licensees, both Committee chairmen are willing to consider this matter further.

Attachment:

Assignment of ACRS/ACNW Responsibilities - Guidelines
Regarding Decommissioning of Nuclear Facilities and
the Interface Regarding Areas of Mutual Interest/
Concern dated January 25, 1990, Rev. 3

cc:

Commissioner Roberts
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
S. Chilk, SECY
C. Michelson, ACRS
D. W. Moeller, ACNW

January 25, 1990
Revision 3

**ASSIGNMENT OF ACRS/ACNW RESPONSIBILITIES - GUIDELINES
REGARDING DECOMMISSIONING OF NUCLEAR FACILITIES AND THE
INTERFACE REGARDING AREAS OF MUTUAL INTEREST/CONCERN**

Background: Memorandum from Chairman Carr, NRC, to Dade W. Moeller, ACNW, and Forrest J. Remick, ACRS, dated November 6, 1989

1) Decommissioning of nuclear plants

The members considered at what stage in the decommissioning process the responsibility as "lead" Committee should be transferred from the ACRS to the ACNW. It was agreed that this should normally take place when the decommissioning plan has been approved, the core has been unloaded from the RPV,⁽¹⁾ and the Possession Only License has been issued by NRR. NMSS normally assumes responsibility for plant activities at this point in the decommissioning process.

The decommissioning review includes several different matters which are reviewed technically by NRR or NMSS (Division of Low-Level Waste), as follows:

- 1.1) Decommissioning Plan - NMSS (LLW)
- 1.2) Security Plan Proposed Changes - NRR
- 1.3) Technical Specification Changes - NRR
- 1.4) Possession Only License - NRR
- 1.5) Defueling procedures for the core - NRR (if necessary)⁽²⁾

NRR has the overall responsibility for coordinating this review and related licensing action, with technical input from NMSS as indicated.

Members agreed that the ACRS have the lead responsibility for items 1.2 through 1.5 during the decommissioning review with ACNW input on a consulting basis as needed/appropriate. The ACNW would have the lead responsibility for item 1.1 with ACRS input as appropriate.

Once the Possession Only License or its equivalent is issued, the responsibility for regulation and licensing (e.g., amendments to

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- (1) In some cases full core unloading may be delayed for a variety of reasons.
 - (2) Most plants already have defueling procedures approved by NRC, but changes resulting from special conditions (e.g., core damage) may be needed.

the Technical Specifications/Security Plan, etc.) of the plant is transferred to NMSS (LLW). At this time, the ACNW would become the lead Committee in all areas with ACRS input provided on a consulting basis as needed/appropriate.

2) Interface of ACRS/ACNW regarding areas of mutual interest/concern

The ACRS/ACNW staff will continue to provide both Committees with related documents, in areas where, in the opinion of the cognizant staff engineer, (1) there is an overlap of interest/concern. This would include, for example, 10 CFR Part 20 changes, etc.. In addition, they will be directed to keep the cognizant ACRS subcommittee chairman and the ACNW Chairman informed of the plans and schedule for action by the lead Committee so that any necessary actions by the "other" Committee can be taken in a timely manner.

The ACRS staff will rely on the cognizant ACRS subcommittee chairman and the ACNW Chairman to take whatever action he deems appropriate (e.g., subcommittee or working group meeting, briefing by NRC staff, discussion with his fellow Committee members, etc.) to identify/develop areas of interest/concern to his parent Committee for endorsement so they can be transmitted to the lead Committee in a timely manner.

APPENDIX E
ACRS FELLOWSHIP PROGRAM

How Is A Fellow Compensated?

An ACRS Fellow will be compensated commensurate with his or her experience, salary history, and NRC pay guidelines. This salary may not exceed the rate established for a GS-15/10 position.

Some travel will be associated with ACRS Fellowship assignments. ACRS Fellows will be reimbursed for official travel and mutually agreed-upon relocation expenses in accordance with normal NRC practices.

The ACRS Fellowship Program was established by Section 204 of Public Law 95-204, 95 Stat. 1463, as amended (10/10/77), the "NRC Authorization Act for Fiscal Year 1978." This provision is codified at 5 U.S.C. 5401.

See Personnel Management Directive 017, "Travel, Lodging, and MF (0-1) - Post Administration."

The ACRS Fellowship Program

The ACRS Fellowship Program

What Is The ACRS Fellowship Program?

The U.S. Nuclear Regulatory Commission's (NRC's) Advisory Committee on Reactor Safeguards (referred to as the ACRS or the Committee) advises the Commission with regard to hazards at proposed or existing reactor facilities and the adequacy of proposed reactor safety standards. The ACRS conducts a Fellowship Program that is designed to facilitate the Committee's independent evaluation of reactor safety issues.

More specifically, the ACRS Fellowship Program was established so that the NRC could hire individuals who would provide for a limited time, technical support to the Committee in its review of highly complex safety-related technical and policy issues as well as reactor safety research activities, assisting the Committee in carrying out its technical functions effectively, efficiently, and in a timely manner. The ACRS seeks individuals for the program who have the requisite technical skills, knowledge, and experience to contribute to the Committee's mission.

Who Is Responsible For The Program?

The ACRS Subcommittee on the Fellowship Program has the responsibility for overseeing the overall activities of the program.

On the basis of the recommendations of this subcommittee, the Committee develops tasks and assignments for and evaluates

the overall performance of the Fellowship Program. The ACRS Fellow may be directed in consultation with the subcommittee. Establishes priorities and schedules for the tasks assigned to Fellows.

What Does A Fellow Do?

Fellows normally work at ACRS headquarters where the ACRS Executive Director supervises their day-to-day activities. Fellows support the activities of the ACRS by:

- performing analyses of technical and policy issues;
- attending meetings of NRC Advisory Committees, Federal, State, and local agencies, and professional organizations and groups dealing with engineering and scientific issues that are of interest to the Committee;
- participating in workshops and seminars for the purpose of exchanging information and discussing issues of interest to the Committee.

How Do I Apply For A Fellowship?

Individuals from inside and outside the NRC are invited to apply for the ACRS Fellowship Program. The ACRS may consider, but is not limited to, the following methods of recruiting candidates for the Program:

- advertising in newspapers and professional journals;

- making various announcements to universities and professional societies, and
- publishing a recruitment notice in the Federal Register.

For further information, please contact the NRC Office of Personnel at (301) 415-7400.

How Is A Fellow Selected?

Fellows are selected primarily on the basis of the candidate's academic training and work experience. The candidate is usually required to have had work experience directly related to the broad field of nuclear power plant design and operation or in such highly specialized technical fields pertinent to the activities of the ACRS as risk assessment, thermal-hydraulic analysis, digital instrumentation and control systems, or materials and metallurgy.

As is true with all NRC employees, an ACRS Fellow candidate must satisfy applicable standards regarding NRC security conflicts of interest, and the ability to work in place. NRC is an equal opportunity employer, and the ACRS Fellowship Program is open to all eligible candidates.

How Long Is A Fellow's Appointment?

Individuals selected to serve as ACRS Fellows will be appointed for a two-year term. The total time served by an individual under term appointment will normally be no more than four years.

APPENDIX F
ACRS/ACNW STAFF/FUNCTIONAL DIRECTORIES

ACRS/ACNW STAFF DIRECTORY

OFFICE OF THE EXECUTIVE DIRECTOR

EXECUTIVE DIRECTOR	John T. Larkins
DEPUTY EXECUTIVE DIRECTOR	Richard P. Savio
ADMINISTRATIVE SECRETARY	Carol Ann Rowe

FELLOWS

ACRS FELLOWS	Richard R. Sherry August W. Cronenburg
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NUCLEAR REACTOR BRANCH

BRANCH CHIEF	Sam Duraiswamy
SR. STAFF ENGINEERS	Paul A. Boehnert Michael T. Markley Noel F. Dudley Medhat M. El-Zeftawy Amarjit Singh
SECRETARY	Donna A. Anderson

NUCLEAR WASTE BRANCH

BRANCH CHIEF	Richard K. Major
SR. STAFF SCIENTISTS	Lynn G. Deering Andrew C. Campbell
SR. STAFF ENGINEER	Howard J. Larson

OPERATIONS SUPPORT BRANCH

BRANCH CHIEF

Carol A. Harris

SENIOR PROGRAM ANALYST

Roxanne Summers

ADMINISTRATIVE OFFICER

Barbara A. Wade

PROGRAM ASSISTANT

Barbara Jo White

INFORMATION SYSTEMS SPECIALIST

Ethel M. Barnard

ADMINISTRATIVE ASSISTANT

Tanya Winfrey

TECHNICAL INFORMATION ASSISTANT

Michele S. Kelton

DOCUMENT CONTROL ASSISTANTS

Theron H. Brown
Lillie M. GaskinsADMINISTRATIVE SECRETARIES/
TRAINING COORDINATORSPatty G. Nibert
Janet D. Wilson

ACRS AND ACNW FUNCTIONAL DIRECTORY

JUNCTION

ACRS ACNW

ADP Coordinator	Barnard	Barnard
Agenda for Full Committee Meeting	Duraiswamy (Rowe)	Major
Action Item Tracking System	Kelton (Nibert)	Kelton (Nibert)
Announcements of Future Meetings (Recorded Message)	White	White
Biographical Information on Members	Wilson (Nibert)	Wilson (Nibert)
Budget	Harris	Harris
Bulletin Board System	Barnard (Kelton)	Barnard (Kelton)
Files	Kelton (Barnard)	Kelton (Barnard)
Classified Document Control	Barnard (Kelton)	Barnard (Kelton)
Classified Document Review	El Zeftawy	El Zeftawy
Computer Services and Support	Barnard	Barnard
Conference Room Reservations	White (Winfrey)	White (Winfrey)
Conflict-of-Interest List	Wade	Wade
Consultant Appointment	Wade (Harris)	Wade (Harris)
Consultant Management	Harris (Wade)	Harris (Wade)
Congressional Document Review	Harris (White)	Harris (White)
Contracts	Summers	Summers
Correspondence Preparation for Committee Chairman	Rowe	Gaskins
Credit Card Procurement	Wade/Summers	Wade/Summers
Document Ordering (Docketed Information)	Brown	Brown
Document Control System	Kelton (Barnard)	Kelton (Barnard)
Employment	Harris (Summers)	Harris (Summers)
Equipment Procurement and Maintenance	Wade (Summers)	Wade (Summers)
Federal Register Notices (Full Committee)	White (Rowe)	White (Rowe)
Federal Register Notices (Subcommittee/Working Groups)	White	White
Fellows Program Foreign Document Review Foreign Meetings	Larkins (Savio)	Larkins (Savio)
FOIA Coordinator	Summers	Summers
	Summers	Summers
	Barnard	Barnard
High-Level Waste Fund Accounting		Wade (Summers)
Hotel Reservations	White (Winfrey)	White (Winfrey)
Information Resource Management	Summers (Barnard)	Summers (Barnard)
Reproduction Equipment	Wade (Kelton)	Wade (Kelton)
Library Services	Barnard (Kelton)	Barnard (Kelton)
License Fee Manpower Accounting System	Wade	Wade
Administrative, Legal and Policy Issues	Harris/Summers	Harris/Summers

ACRS AND ACNW FUNCTIONAL DIRECTORY

<u>FUNCTION</u>	ACRS	ACNW
Mailroom Operation	Brown (Gaskins)	Brown (Gaskins)
Manpower Reporting System	Wade	Wade
Notebooks for Full Committee Meetings	Nibert/Wilson	Nibert/Wilson
Meeting Rooms (Local & Out-of-Town)	White	White
Meeting Scheduling	Cognizant Engineers*	Cognizant Engineers*
Member Selection Arrangements	Wade	Wade
Minutes of Full Committee Meetings	Summers (Kelton)	Kelton (Summers)
Administrative Manual	Nibert/Wilson	Nibert/Wilson
Out-of-Town Meeting Arrangements	White (Winfrey)	White (Winfrey)
Personnel Services	Harris (Wade)	Harris (Wade)
Program Support (National Laboratories, etc.)	White (Harris)	White (Harris)
Property Custodian	Wade (Wilson)	Wade (Wilson)
Purchase Orders	Harris/Wade	Harris/Wade
Records Liaison Officer	Barnard	Barnard
Reimbursements	Harris (Savio)	Harris (Savio)
Security Advisor	Kelton	Kelton
Statutory Requirements	Summers (Larkins)	Summers (Larkins)
Court Reporter	White (Rowe)	White (Rowe)
Subcommittee/Working Group Assignments	Duraiswamy	Major (Gaskins)
Supplies and Equipment	Wade (Summers)	Wade (Summers)
Technical Secretary	Summers (Kelton)	Kelton (Summers)
Telecommunications Officer	Barnard	Barnard
Training Coordinator	Nibert/Wilson	Nibert/Wilson
Travel Approval	Harris (Summers)	Harris (Summers)
Travel Services, Consultants	White (Winfrey)	White (Winfrey)
Travel Services, Members/Staff	Winfrey (White)	Winfrey (White)

Names in parentheses are backups.

*See the latest Subcommittee Assignment List for names of Cognizant Engineers.

APPENDIX G
CONFLICT-OF-INTEREST DOCUMENTS



UNITED STATES
NUCLEAR REGULATORY COMMISSION

ANNOUNCEMENT NO. 147

DATE: Dec. 2, 1992

TO: All NRC Employees

SUBJECT: NEW GOVERNMENT-WIDE STANDARDS OF CONDUCT
REGULATIONS

The Office of Government Ethics (OGE), the agency with responsibility for providing guidance on preventing conflicts of interest, promulgated new government-wide standards of conduct regulations, which will take effect on February 3, 1993. These regulations will replace the NRC conduct regulations found at 10 C.F.R. Part 0. Because the new regulations are quite comprehensive and complex, the Office of the General Counsel has prepared the attached detailed summary of their provisions. A copy of the OGE regulations in their entirety is being distributed separately to all employees.

Because employees will be held accountable to comply with these regulations, it is essential that each employee understands their requirements. For this reason, I ask every employee to read and retain this summary as well as the regulations when received. Employees should be given at least one hour of official time to read the regulations.

The new regulations make significant changes to the current rules regarding seeking employment, gifts to official superiors, speaking at conferences, participating at widely-attended gatherings, writing letters of recommendation, accepting honorary degrees or awards with a value over \$200, participating in matters affecting a former employer, and accepting compensation for teaching, speaking, or writing.

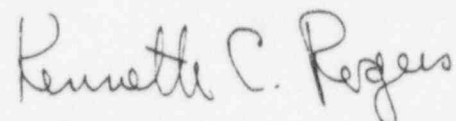
The regulations do not contain provisions on employee participation in professional associations on government time; this issue will be addressed in a subsequent Office of Government Ethics rulemaking. In the interim, any use of official time for activities relating to professional associations must be beneficial to the NRC.

One of the most important parts of the regulations concerns acceptance of gifts from private sources. In some respects, the rules liberalize current gift-acceptance provisions. Specifically, they allow an employee to accept from anyone, including a licensee, a non-cash gift valued at \$20 or less per occasion, with a \$50 limit on gifts from that person during a year. However, the regulations prohibit accepting gifts from the same source so frequently that a reasonable person with knowledge of the relevant facts would be led to believe the employee is using public office for private gain. They also provide that it is never inappropriate and frequently prudent for an employee to decline a gift offered by a prohibited source, such as a licensee or contractor, or because of the employee's official position. The Commission would, therefore, emphasize that, because it is essential that NRC employees maintain an arms-length relationship with those who are regulated by or have business before this agency, it would be prudent for NRC employees to exercise care even in accepting permitted gifts or meals from these sources.

Congress has not modified the law barring employees from accepting honoraria for speeches, appearances, or articles. These restrictions are mentioned in the new standards of conduct regulations and set forth in greater detail in other Office of Government Ethics regulations.

A separate set of regulations issued by the Office of Government Ethics requires that all employees who file a financial disclosure report must receive at least one hour of oral ethics training each year. Beginning in January 1993, the Office of the General Counsel will conduct ethics training in headquarters and the regions for the approximately 2,500 NRC employees subject to the financial disclosure requirements. Further details on this training will be provided to employees at a later date.

If anyone has any questions about the new regulations, please contact John Szabo in the Office of the General Counsel at 301-504-1610.



Kenneth C. Rogers
Acting Chairman

Attachment:
As stated

OFFICE OF THE GENERAL COUNSEL

SUMMARY OF NEW GOVERNMENT-WIDE
STANDARDS OF EMPLOYEE CONDUCT

On August 7, 1992, the Office of Government Ethics (OGE) promulgated uniform standards of ethical conduct for Executive Branch employees. These regulations, when they become effective on February 3, 1993, will supersede (with limited exceptions) conduct regulations for all agencies, including the NRC regulations set forth in Part 0 of title 10 of the Code of Federal Regulations. The NRC's current regulations restricting stock ownership and requiring approval of certain outside employment will remain in effect until February 3, 1994, unless prior to that date, the NRC has, with OGE's approval, promulgated supplemental regulations continuing these requirements.

The following is a summary of the OGE regulations. An asterisk (*) indicates a significant change from current regulations, policies, procedures, or interpretations. A double asterisk (**) means that the term is defined in the regulations and described further in this Summary.

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SUBPART A -- GENERAL PROVISIONS

General principles. The regulations prescribe the 14 general principles of ethical conduct set forth in President Bush's 1989 Executive Order on ethics (E.O. 12674). Most of these principles have long been reflected in NRC's regulations, such as prohibiting use of public office for private gain. They also require employees to (1) disclose waste, fraud, abuse, and corruption, (2) satisfy their just financial obligations, (3) not engage in outside employment or activities, including seeking other employment, that conflict with official duties, and (4) endeavor to avoid actions creating the appearance of violating the law or the standards of conduct regulations. A determination on whether particular circumstances create an appearance that the law or these standards have been violated shall be made from the perspective of a reasonable person with knowledge of the relevant facts. 5 CFR 2635.101 (OGE regulations).

Definitions. Many important definitions used throughout the regulations are contained in this subpart:

* "Agency designee" is an employee delegated authority to make determinations, give approvals, grant waivers, or take actions permitted by the conduct regulations. (Until the issuance of an NRC Directive naming appropriate designees, these authorities will be exercised by officials designated in applicable provisions of 10 CFR Part 0.)

* "Employee" includes special government employees (consultants and most advisory committee members who serve less than 130 days during a 365-day period). This means that most of the standards of conduct regulations will apply to special government employees. Previously, only specified portions applied to special government employees. Different rules applying to special government employees are spelled out in the OGE regulations and in this Summary. Status as an employee is not affected by pay or leave status, or in the case of a special government employee, by the fact that the individual does not perform official duties on a given day.

"Person" is an all-inclusive term. It includes corporations, their subsidiaries, and their employees as well as non-profit organizations and foreign, state, and local governments. A corporation is deemed to control a subsidiary if it owns 50% or more of its voting securities. The definition specifically excludes a federal agency or entity or its employees when acting on behalf of the agency. 5 CFR 2635.102.

* Details. Employees on detail to another agency for more than 30 days would be subject to the supplemental conduct regulations of the agency to which the employee is detailed and not their own agency. (This means that, unlike current practice, most detailees to the NRC would be subject to this agency's stock ownership restrictions and approval requirements for certain

outside employment, unless the NRC provides otherwise in an OGE approved supplemental regulation.) Employees detailed to the legislative or judicial branches would be subject to the ethical standards of the branch to which they are detailed. An agency ethics official can exempt from the gift acceptance standards employees detailed for more than six months to an international organization or a state or local government if certain specified findings are made. 5 CFR 2635.104.

* Supplemental regulations. Agencies are authorized to issue agency-specific regulations supplementing the uniform regulations (such as the stock ownership prohibition and outside employment rules). They will be published as addenda to the OGE regulations in 5 CFR Part 2635. OGE must concur with NRC supplemental regulations. 5 CFR 2635.105.

Disciplinary actions. Violations of the conduct regulations may be cause for disciplinary action. Agencies have responsibility to initiate appropriate disciplinary action, but OGE may order or recommend corrective action if dissatisfied with the agency's response. 5 CFR 2635.106.

* Ethics Advice. Each agency will continue to have a designated ethics official responsible for coordinating and managing its ethics program, including delegating ethics counseling to deputy ethics officials. (At the NRC, the Commission has designated the General Counsel as the Designated Agency Ethics Official; the General Counsel has designated certain OGC attorneys as Deputy Counselors. Employees should obtain guidance on the conduct regulations from an OGC Deputy Counselor in the Division of Legal Counsel, Legislation, and Special Projects.) Employees will not be subject to agency disciplinary action if they follow advice from a Deputy Counselor, provided that the employee made a full disclosure of all the relevant facts. However, good faith reliance on a Deputy Counselor's opinion, while an important consideration, will not necessarily preclude the Justice Department from prosecuting an individual for statutory violations. 5 CFR 2635.107.

SUBPART B -- GIFTS FROM OUTSIDE SOURCES

Prohibitions. Employees are prohibited from directly or indirectly (**) soliciting or accepting (with certain exceptions specified below) gifts (**) from a prohibited source (**) or gifts given because of the employee's official position. A gift is solicited or accepted because of the employee's official position if it is from a person other than another employee and would not have been solicited, offered, or given had the employee not held his position as a Federal employee.

Regardless of any of the exceptions to this prohibition, employees cannot:

--accept gifts in return for being influenced in the performance of an official act,

--solicit or coerce the offering of a gift,
--accept gifts from the same or different sources so frequently that a reasonable person would conclude the individual is using public office for private gain,
--accept a gift in violation of a statute (such as the statutes barring bribery or supplementation of salary from any source other than the United States), or
--accept training by a person, such as a vendor, if its purpose is to promote its products or services. 5 CFR 2635.202.

Gift includes a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. This includes services as well as gifts of training, transportation, local travel, and lodgings and meals. It excludes (1) modest refreshments such as soft drinks, coffee and donuts that are not offered as part of a meal, (2) opportunities and benefits available to the public or a class consisting of all government employees, (3) greeting cards and other items with little intrinsic value such as plaques, certificates, and trophies, (4) bank loans on terms generally available to the public, (5) pension benefits under a former employer's plan, and (6) rewards and prizes given to competitors in contests or events that are open to the public, including random drawings.

"Prohibited source" is a person who seeks official action by the employee's agency, does or seeks business with the agency, conducts activities regulated by the agency, has interests that may be substantially affected by the performance or nonperformance of the employee's official duties, or is an organization a majority of whose members meets the above description. 5 CFR 2635.203.

Indirect gift is a gift given with the employee's knowledge and acquiescence to the employee's parent, sibling, spouse, child or dependent relative because of the relationship to the employee or given to another person, including a charity, on the employee's designation, recommendation, or other specification.

Exceptions. The regulations prescribe numerous exceptions to the gift-acceptance prohibition in addition to the exclusions noted above in the definition of gift. However, the regulations prohibit employees from accepting gifts from the same source so frequently that a reasonable person would be led to believe the employee is using public office for private gain. They also provide that, even though a gift may be accepted legally,

"it is never inappropriate and frequently prudent for an employee to decline a gift offered from a prohibited source or because of his official position."

The exceptions set forth in 5 CFR 2635.204 are the following:

1. * "De minimis" exception. Employees may accept unsolicited gifts having a market value of \$20 or less per occasion, but may not accept gifts with a value of more than \$50 from a single source in a calendar year. A particular licensee and its employees would be considered a single source. This exception does not authorize the acceptance of cash or investment interests, such as stocks, bonds, or certificates of deposit. If a gift exceeds \$20 in value, the employee cannot pay the excess over \$20 in order to accept the gift. If more than one gift offered on a single occasion exceeds \$20 in aggregate value, the employee may decline any distinct item in order to accept those items aggregating \$20 or less. (This exception represents a significant change from current regulations which generally preclude employees from acceptance of gifts and meals from the regulated community.)

2. Personal gifts. Employees may continue to accept gifts motivated by a family relationship or personal friendship. (Meals or gifts funded from corporate expense accounts are not personal gifts.)

3. Discounts. Employees may accept discounts, including reduced membership or other fees for participation in an organization, if the offer is available to all government employees and the only restrictions on membership relate to professional qualifications. Employees may also accept favorable rates and commercial discounts that are available to federal employees or to members of the public. Discounts received from non-prohibited sources may be accepted if the discount is not limited to those with a high rank or rate of pay. However, employees cannot accept a benefit to which the government would be entitled because of the use of government funds, such as a free gift resulting from the agency's purchases from a vendor.

4. * Awards and honorary degrees. Employees, including special government employees, can accept gifts, other than cash or an investment interest, of \$200 or less in value if such gifts are a bona fide award or incident to a bona fide award for meritorious public service or achievement if the donor does not have interests that may be substantially affected by the performance or nonperformance of the employee's duties or is an organization whose members do not have such interests. Gifts with an aggregate market value in excess of \$200 and awards of cash or investment interests may be accepted if an agency ethics official determines in writing that the award is part of an established program of recognition made on a regular basis according to written standards. Employees can accept honorary degrees from institutions of higher education if written approval is received from an agency ethics official. Meals and entertainment for the employee and family at a presentation event of the award or degree may be accepted regardless of value. (These approval requirements are new.)

5. Business-related gifts. Employees may accept meals, lodging, transportation, and other benefits resulting from the outside employment or business relationship of the employee or the employee's spouse if it is clear that the gift is not offered or enhanced because of the employee's government position.

Employees may accept expenses customarily provided by a prospective employer in connection with bona fide employment discussions but must first disqualify themselves if the prospective employer has interests that could be affected by the employee's performance or nonperformance of official duties under the procedures in Subpart F of these regulations.

6. Gifts from political organizations. Only officials exempt from the Hatch Act (which restricts the political activities of federal employees) may accept meals, expenses, and other benefits for participating at political events. (The only NRC officials exempt from the Hatch Act are the Commissioners.)

7. * Speaking engagements. Employees who are speakers, panelists, or otherwise presenting information on behalf of the agency at a conference or other event may accept food and free attendance for those days that they are making their presentation. On the days they are not speaking or otherwise presenting information at the conference, employees may only accept a waiver of conference fees and meals if it is a "widely-attended" gathering (discussed below) or the sponsoring organization is a tax exempt organization under 26 U.S.C.

1(c)(3), which are generally non-profit charitable, religious, or educational institutions and some professional organizations. (In the past, NRC speakers have not been required to pay a fee to cover attendance at a conference on days when they were not speakers. In most cases, the employee could presumably accept free food and attendance for the entire event because it will qualify as a "widely-attended" gathering).

8. * "Widely-Attended" gatherings. Employees may attend "widely-attended" gatherings without cost and accept food and refreshments offered if there has been a determination that attendance is in the agency's interest because it would further agency programs or operations. A gathering is "widely attended" if, for example, it 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. For employees subject to the federal leave system, attendance at the event shall be on the employee's own time, unless administrative leave has been authorized. The determination that attendance is in the agency's interest must be made by the agency designee and may be given orally, unless the sponsor of the event has interests that would be substantially affected by the performance or nonperformance of the employee's duties or the majority of the members of the sponsoring association or organization have such interests. In such a case, the agency designee must determine in writing that the agency interest in the employee's participation at the event outweighs the concern that acceptance of the gift or

free attendance may improperly influence the employee in the performance of official duties. The agency designee may authorize the employee's spouse to attend this event if other attendees will generally be accompanied by their spouses. (In the past, written approval was required for attendance at all "widely-attended" gatherings. Also, the provision relating to attendance by the employee's spouse is new.)

9. Gifts authorized by supplemental regulation or statute may be accepted, such as travel expenses from certain tax-exempt non-profit organizations for training or attendance at meetings or under the Foreign Gifts and Decorations Act.

10. * Meals, refreshments and entertainment in foreign areas. An employee assigned to duty in, or on official travel, to a foreign area may accept food, refreshments, or entertainment in the course of a breakfast, luncheon, dinner, or other meeting if (1) the value of the gift does not exceed the applicable per diem rate for the foreign area, (2) there is participation in the meeting or event by non-U.S. citizens or representatives of foreign governments or other foreign entities, (3) attendance at the meeting is part of the employee's official duties, and (4) the gifts of meals, refreshments or entertainment is not from a foreign government. (Different rules apply to receipt of gifts from foreign governments.)

* Disposition of gifts. Employees must return gifts they cannot accept or pay the donor the fair market value of the gift. Perishable gifts, such as food or flowers, may be given to charity, shared with others in the recipient's office, or destroyed. Agencies may authorize disposition or return of gifts at government expense. Employees who promptly satisfy the disposition requirements on their own initiative or after prompt consultation with an agency ethics official will not be deemed to have violated the bar on acceptance of prohibited gifts. 5 CFR 2635.205.

SUBPART C -- GIFTS BETWEEN EMPLOYEES

Prohibition on Gifts to superiors. Except as provided in this Subpart, employees cannot directly or indirectly: (1) give a gift to, or make a donation for a gift to, an official superior; or (2) solicit contributions from other employees for a gift to either their own or the other employees' official superior. Employees cannot directly or indirectly accept gifts from an employee receiving less pay than themselves unless they are not in a subordinate-superior relationship and there is a personal relationship that justifies the gift. An official superior may never coerce the offering of a gift from a subordinate. 5 CFR 2635.302.

** Official Superior means any other employee (other than the President or Vice President) including but not limited to an immediate supervisor, whose official responsibilities include

directing or evaluating the performance of the employee's official duties or those of any other official superior of the employee. Employees are considered to be the subordinate of any of their official superiors.

* Exceptions to the prohibition: Items (other than cash) valued at \$10 or less may be given to a superior on an occasional basis (such as birthdays or holidays). The \$10 rule does not apply to office refreshments to be shared in the office; personal hospitality at a residence customarily provided to friends; customary items, such as "hostess gifts," given in connection with hospitality at a residence; contributions of annual leave under the government's leave transfer program; and gifts on special, infrequent occasions such as marriage, illness, birth of a child, or retirement. An employee may solicit voluntary contributions (**) of a nominal amount from other employees to gather the funds for an appropriate gift to an official superior on a special, infrequent occasion or for items, such as food or refreshments, to be shared in the office among several employees. 5 CFR 2635.304.

** Voluntary contribution means a contribution freely given, without pressure or coercion. The amount is to be left to the employee's discretion although the employee soliciting contributions may suggest an amount or respond to an inquiry on an appropriate amount. The solicitor must make clear that employees can contribute less than the suggested amount or nothing. Employees who pay a proportionate share of the total cost of an organized lunch or similar event will be deemed to have made a voluntary contribution. 5 CFR 2635.303.

SUBPART D -- CONFLICTING FINANCIAL INTERESTS

Disqualifying interests. Employees are prohibited by 18 USC 208(a) from participating personally and substantially (**) in their official capacity in a particular matter (**) in which, to their knowledge, they or any person whose interests are "imputed" (**) to them have a financial interest (**), if the matter will have a "direct and predictable" (**) effect on that interest. 5 CFR 2635.402.

** Imputed interests are financial interests of the employee's spouse, minor child, general partner, any organization the employee serves as officer, director, trustee, general partner, or employee, or anyone with whom the employee is negotiating, or has an arrangement for, prospective employment.

** Particular matter encompasses only matters involving deliberation, decision, or action focused on the interests of specific persons or a discrete and identifiable class of persons (even though it does not involve formal parties). It may include governmental action such as legislation or policy-making narrowly focused on the interests of a discrete and identifiable class. It does not extend to broad policy options directed to the

interests of a large and diverse group. Some generic rulemakings would be considered particular matters. Examples in the OGE regulations indicate that a rulemaking proceeding affecting a large group of taxpayers would not be a particular matter (such as an IRS regulation relating to depreciation), but a safety regulation pertaining to safety standards for trucks using interstate highways would be a particular matter.

** Direct and predictable effect. A particular matter will have a "direct" effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest. There is no such effect if the chain of causation is attenuated or contingent on the occurrence of events that are speculative, independent, or unrelated to the matter. There will be a "predictable" effect if there is a real, as opposed to a speculative, possibility that the matter will affect a financial interest.

** Personal and substantial. "Personal" participation means to directly participate in the matter, including direct and active supervision. "Substantial" participation means involvement that is of significance to the matter, even though it is not determinative of the outcome. Substantiality is based not only on the effort devoted to the matter, but also on its importance. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial, such as participation through decision, approval, disapproval, recommendation, investigation, or rendering advice.

Disqualification. Employees are required to disqualify themselves from participating in particular matters which affect their financial interests or ones imputed to them. There is no requirement to file a written statement of disqualification unless asked to do so by an agency ethics official or the person responsible for their assignment. However, employees who become aware of the need to disqualify themselves from a particular matter to which they have been assigned should notify their supervisor so that they can be immediately relieved of responsibility for the matter. Pursuant to 18 U.S.C. 208(b), employees with a disqualifying financial interest may participate in a particular matter if they receive a waiver from their appointing official based on a determination that the interest is not so substantial as to affect the integrity of their services to the government. (No NRC official should make this determination without first consulting an ethics official in the Office of the General Counsel.) When practicable, the OGC must consult with OGE prior to granting a waiver. 5 CFR 2635.402

Divestiture. Sale or other divestiture of the disqualifying interest will permit the employee to participate in the matter. Employees may be required to sell the interest if the continued holding is prohibited by statute or supplemental regulation or if

the agency determines that a substantial conflict exists between the financial interest and the employee's duties or the accomplishment of the agency's mission.

* Prohibited financial interests. Employees cannot acquire or hold interests prohibited by statute, agency regulation, or agency determination of substantial conflict. Agencies may issue supplemental regulations prohibiting the holding of a financial interest or a class of financial interests by employees or a class of employees, based on a determination that holding the interest would cause a reasonable person to question the impartiality and objectivity with which agency programs are administered. Supplemental regulations may also restrict the holdings of the employee's spouse or minor children if the agency determines that there is a direct and appropriate nexus between the prohibition or restriction and the efficiency of the service. (Current NRC stock prohibitions cover the employee, the spouse, minor children, and other relatives living in the household. These restrictions will remain in effect until February 3, 1994, or until a supplemental regulation is promulgated, whichever occurs first. The current NRC restrictions will need to be revised to reduce their scope to exclude anyone other than the employee, spouse, and minor children.) An agency could also prohibit the holding of a financial interest if the employee would be required to disqualify himself or herself from matters critical to the performance of official duties or would adversely affect the efficient accomplishment of the agency's mission because another employee could not be readily assigned to the matter. 5 CFR 2635.403.

"Financial interest" is limited to interests owned by the employee or by the employee's spouse or minor children. The term includes any current or contingent ownership, equity, or security interest (e.g. stocks and bonds) and may include an indebtedness or compensated employment relationship. It also includes service, with or without compensation, as an officer, director, trustee, general partner, or employee of any person, including a nonprofit entity. It does not include a future interest created by someone other than the employee, spouse, or dependent child or any right as a beneficiary in an estate that is not settled. 5 CFR 2635.403(c).

Period for divestiture. Employees directed by their agency to divest themselves of a financial interest have a reasonable time to sell. Except in cases of unusual hardship, a reasonable period should not exceed 90 days. All employees, except special government employees, are eligible to defer the tax consequences of a required sale (see Subpart J). (Currently, NRC employees are given one year to divest themselves of prohibited securities that are added to the agency's prohibited stock list as a result of the annual review of that list.) 5 CFR 2635.403(d).

SUBPART E -- IMPARTIALITY IN PERFORMING OFFICIAL DUTIES

Personal and business relationships When an employee knows that a "particular matter" (**) involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his or her household or knows that a person with whom he or she has a "covered relationship" (**) is or represents a party to such matter, the employee must evaluate whether participation in the matter is appropriate. If the employee determines that the circumstances would cause a reasonable person with the relevant facts to question the employee's impartiality, the employee should not participate in the matter, unless the employee informs the agency designee of the appearance problem and receives written authorization from the designee.

5 CFR 2635.502.

* "Covered relationships." There are five categories of covered relationships:

- persons, other than prospective employers, with whom the employee has or seeks a financial relationship (except a routine consumer transaction);
- members of the employee's household or relatives with whom the employee has a close personal relationship;
- persons for whom the employee's spouse, parents or dependent child serves or seeks to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee;
- persons for whom the employee served in the last year as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee; and
- a nonpolitical organization in which the employee is an active participant. (Payment of dues or the donation or solicitation of financial support does not, in itself, constitute active participation.) 5 CFR 2635.502(b).

* Agency designee authorization. Where there is a problem of an appearance of impropriety from the financial interest, the agency designee may authorize the employee to participate in the matter. The authorization shall be documented in writing at the designee's discretion or when requested by the employee. It must be based on an independent determination, after consideration of all relevant circumstances, that the government's need for the employee's participation in a particular matter outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. If authorized by the agency designee to participate in a particular matter, employees may not later disqualify themselves from participation if based on the same circumstances considered by the agency designee. 5 CFR 2635.502(d). (This provision is significant because, for the first time, there is a government-wide requirement that an employee is not to participate in matters affecting his former employer for the first year following termination of that relationship, unless prior written approval is received from the NRC.)

* Extraordinary payments from former employers. Employees who receive a severance payment exceeding \$10,000 prior to entering federal service are prohibited for two years from the date of receipt of payment from participating in any particular matter in which the former employer is a party or represents a party. It does not apply to payments made pursuant to an established compensation or benefits plan. A waiver can be granted only by the head of the agency (or person delegated authority to issue 18 USC 208(b) waivers) if there is a finding that the amount was not so substantial as to cause a reasonable person to question the employee's ability to act impartially. 5 CFR 2635.503.

SUBPART F -- SEEKING OTHER EMPLOYMENT

* Employees shall disqualify themselves from participation in any particular matter directly and predictably (**) affecting the financial interests of a person with whom they are seeking employment (a prospective employer) (**) or have any arrangement concerning prospective employment. There are no such obligations on employees seeking employment with someone whose financial interests are not affected by their official duties. (This means, for example, that an employee in one regional office may negotiate with a utility located in another region or with a utility in their region for which the employee has no responsibility without informing the supervisor.) Employees may accept travel expenses and other reasonable amenities incident to employment discussions even from a prospective employer who is a prohibited source under the gift standards in Subpart B. 5 CFR 2635.602.

* "Seeking employment" has begun when the employee directly or indirectly:

- engaged in "negotiations," which involved discussion or communication with another person or the person's agent or intermediary, mutually conducted with a view toward reaching an agreement on possible employment. It is not limited to discussions of specific terms and conditions in a specific position;
- made an unsolicited communication (e.g., sent out a resume) to a person or such person's agent on possible employment. It does not include communications for the sole purpose of requesting a job application. Employees are not required to disqualify themselves from participating in a generic rulemaking affecting an entity to whom they have submitted a resume until the recipient responds by indicating an interest in employment discussions; or
- made a response, other than a rejection, to an unsolicited communication from a person or agent on possible employment.

An employee is no longer seeking employment when:

- either party rejects the possibility of employment and all employment discussions have terminated, or
- two months have transpired after the employee sent an unsolicited resume or proposal and the employee received no

indication of interest in employment discussions from the prospective employer.

A response deferring discussions for the foreseeable future does not constitute a rejection. 5 CFR 2635.603(c).

Prospective employer is any person with whom the employee is seeking employment. It includes a person who uses an agent or other intermediary or is contacted by an employee's agent to seek to establish an employment relationship if the agent identifies the prospective employer to the employee.

Disqualification. Employees who wish to initiate employment contacts with a person whose financial interests they know will be directly and predictably affected by a particular matter to which they will be assigned shall take steps necessary to disqualify themselves before beginning to seek employment with that person. Written disqualification statements are not necessary unless requested by the agency ethics official or the employee's supervisor. Appropriate oral or written notification of the employee's disqualification may be made to coworkers by the employee or a supervisor to ensure that the employee does not participate in matters affecting the prospective employer (**). When a disqualification will preclude the employee from participating in matters critical performance (such as a resident inspector seeking employment with the utility that operates the facility he or she is responsible for), the agency may allow the employee to take annual leave or leave without pay while seeking employment, or may take other appropriate administrative action.

Waiver. Employees may participate in matters affecting a prospective employer (**) if they receive a waiver either under 18 USC 208(b) or by the agency designee if the designee finds that the government's need for the employee's participation outweighs the concerns that a reasonable person may question the integrity of the agency's programs or operations. The agency designee may determine that an employee no longer seeking employment shall remain disqualified for a specified period of time from matters affecting a prospective employer if the designee determines that the concern that a reasonable person may question the integrity of the agency's decision making process outweighs the Government's interest in the employee's participation in the particular matter. 5 CFR 2635.604-.606.

SUBPART G -- MISUSE OF POSITION

* Public office for private gain. Employees shall not use their public office for their own private gain, for the endorsement of any product, service, or enterprise, or for the private gain of friends, relatives, or persons with whom they are affiliated in a nongovernmental capacity, including nonprofit organizations in which they are officers or members, and persons with whom they have or seek employment or business relations. Employees shall not use their office in a manner to induce or coerce another

person, including a subordinate, to provide any benefit to themselves or their friends, relatives, or persons with whom they are affiliated in a nongovernmental capacity.

Use of title or position. Employees shall not use their government position or title in a manner that could reasonably be construed to imply government endorsement of their personal activities or those of another or to endorse any product, service, or enterprise. Employees may only sign a letter of recommendation using their official title or government letterhead paper in response to a request for an employment recommendation or character reference based on their personal knowledge of an individual they dealt with in the course of federal employment or whom they are recommending for federal employment. In instances where an employee is not able to use government letterhead or official title, the employee can mention his or her official title in the body of the letter. Employees are not prohibited, in connection with a personal activity, from using a term of address or rank that they normally employ, such as "The Honorable." 5 CFR 2635.702.

Use of nonpublic information. Employees shall not engage in a financial transaction using nonpublic information (**), nor allow the use of nonpublic information to further their own private interest or that of another through advice, recommendation, or by an unauthorized disclosure. (However, disclosures made inadvertently or by mistake would not violate this regulation.)

** Nonpublic information is information employees gain from federal employment and that they know or reasonably should know has not been made available to the general public. It includes information (1) exempt from disclosure under the Freedom of Information Act, (2) designated confidential by an agency, or (3) that has not actually been disseminated to the general public and is not authorized to be made available to the public on request. 5 CFR 2635.703.

Use of government property. Employees have a duty to protect and conserve government property and may not use it or allow its use for other than authorized purposes. 5 CFR 2635.704.

Use of official time. Unless legally authorized, employees shall not use official time other than to perform official duties. Employees shall also not encourage, direct, coerce, or request a subordinate to use official time for nonofficial activities unless legally authorized. 5 CFR 2635.705.

SUBPART H -- OUTSIDE ACTIVITIES

Employees who wish to engage in outside employment or other activities are subject to applicable requirements in this subpart, other subparts and supplementary regulations, and statutes, such as the conflict of interest laws (18 U.S.C. 201-209), the Hatch Act (prohibiting certain political activities), the Emoluments Clause of the Constitution (which bars acceptance of compensation from foreign governments), and the Ethics Reform Act's provisions banning honoraria and limiting noncareer employees' outside compensation. 5 CFR 2635.801.

Conflicting activities. Employees shall not engage in outside activities that conflict with official duties, those prohibited by statute or agency supplemental regulation, or those which would require disqualification by reason of the conflicting financial interest or the impartiality standards (Subparts D and E). 5 CFR 2635.802.

Prior approval. Employees shall obtain prior approval for outside employment or activities if required by agency supplemental regulation. Agencies may require prior approval of outside employment by employees or any category of employees by supplemental regulation. (Current NRC regulations which require prior written approval of certain outside activities remain in effect until February 3, 1994 or until NRC promulgates a new supplemental regulation, whichever comes first. The NRC intends to promulgate a new supplemental regulation.) 5 CFR 2635.803.

Noncareer employees. Full-time noncareer Presidential appointees shall not receive any outside earned income during their appointment. Noncareer employees covered under title VI of the Ethics Reform Act (generally Commissioner assistants) may not receive outside earned income that exceeds 15 percent of annual income. 5 CFR 2635.804.

* Expert witness. An employee shall not serve, other than on behalf of the United States, as an expert witness, with or without compensation, in a U.S. court or agency proceeding in which the U.S. is a party or has a direct and substantial interest. However, the designated agency ethics official may authorize service as an expert witness (1) as being in the government's interest, after consulting with the federal agency representing the government or the agency with the most direct and substantial interest, or (2) because the subject matter of the testimony does not relate to the employee's official duties. Employees are not prohibited from serving as a fact witness under subpoena. (Special government employees who are appointed by the President, serve on a statutorily-established commission, or serve more than 60 days in a 365-day period shall not serve as expert witnesses in federal proceedings in which their employing agency is a party or has a direct and substantial interest unless authorized by the designated agency ethics official.) 5 CFR 2635.805.

* Participation in professional associations. The Office of Government Ethics will address this issue in a forthcoming rulemaking proceeding. Its proposed rule, which generally precluded federal employees from using government time to administer the affairs of professional organizations, generated considerable controversy.

Teaching, speaking, and writing. Employees, including special government employees, shall not receive compensation (**) from a nongovernment source for teaching, speaking, or writing that relates to their official duties. (This restriction is in addition to the Ethics Reform Act's prohibition on employees' receiving certain honoraria for an appearance, speech, or article.) The prohibitions in this regulation involve activities:

- 1) undertaken as part of official duties;
- 2) where the invitation to engage in the activity was primarily extended because of the employee's official position rather than the employee's expertise;
- 3) where the invitation was extended, directly or indirectly, by a person with interests that may be substantially affected by the performance or nonperformance of the employee's duties;
- 4) where the information conveyed through the activity draws substantially on ideas or official data that are nonpublic information; or
- 5) where the subject matter focuses specifically on (a) any matter to which the employee is presently assigned to or which the employee had been assigned to during the previous year, (b) any ongoing or announced policy, program, or operation of the agency, or (c) in the case of a noncareer employee, the general subject matter area, industry, or economic sector primarily affected by the programs and operations of the agency.

As to prohibition number 5, special government employees are only barred by subpart (a). However, special government employees who have not served the government more than 60 days in the preceding 365 days are only barred from receiving compensation for activities pertaining to particular matters involving specific parties in which they participated personally and substantially.

* For career employees, restriction 5 prohibits accepting compensation when teaching, speaking, or writing about agency policies, programs, and operations or on specific matters to which they are assigned or were assigned during the previous year. The prohibition applies only where the activity deals in significant part with the agency's policies, programs or operations and would not prohibit, for example, compensation for a speech on a general subject matter, such as nuclear power, as long as the speech only incidentally touches on agency responsibilities, programs, or operations. Restriction 5 also does not preclude employees (other than covered noncareer

employees) from receiving compensation for teaching, speaking or writing on a subject within their discipline or inherent area of expertise based on their educational background or experience even though the activity generally deals with a subject within the agency's mission.

Employees are not prohibited from compensation for teaching a course requiring multiple presentations that is part of the regularly established curriculum of an institution of higher learning or an elementary or secondary school or part of an education or training program sponsored and funded by a federal, state, or local government even if the subject matter of the course focuses on the agency's responsibilities, programs, or operations.

** Compensation for these activities includes any form of consideration, remuneration, or income, including royalties and travel reimbursements, but not meals or other incidents of attendance as waiver of attendance fees or course materials.

Employees engaged in nongovernmental teaching, speaking, or writing shall not use their official title or position to identify themselves in connection with that activity or to promote a book or course. However, employees may include their title as part of biographical information (provided that it is not given greater prominence than other biographical information) or when coupled with an appropriate disclaimer in a scholarly article in professional journals that the views expressed do not necessarily represent the views of the agency. 5 CFR 2635.807.

Fundraising activities. Employees shall not use their official position to raise funds for any organization, including a charitable group, unless specifically authorized by statute, executive order, or regulation (such as the Combined Federal Campaign). Employees may raise funds in their personal capacities, but shall not solicit funds or other support from subordinates or prohibited sources, use their official title, position, official time, government resources, or authority in connection with that fundraising. An employee who is ordinarily addressed by a general term, such as, "The Honorable," or a rank, such as military or ambassadorial rank, may use or permit the use of that term of address or rank for such purposes.

Employees may continue to speak in an official capacity at appropriate events, even though the event may also serve a fundraising purpose, if the speech relates to official duties and the employee does not request donations or other support for the group. They can also attend a fundraising event as long as, to their knowledge, their attendance is not used to promote the event. 5 CFR 2635.808.

Just financial obligations. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those imposed by law, such as federal, state and local taxes. 5 CFR 2635.809.

Gambling. The Office of Personnel Management issued on November 30, 1992, final regulations that prohibit employees from conducting or participating in any gambling activity on government property or while on official duty. This prohibition includes operating a gambling device, conducting a lottery or pool, a game for money or property, or selling or purchasing a numbers slip or ticket. An exception to this rule permits these activities if they are sponsored by an employee recreation association under policies and procedures approved by the head of the relevant agency. The OPM regulations also prohibit employees from engaging in conduct prejudicial to the government. 5 CFR 735.201-203.

SUBPART I -- RELATED STATUTORY AUTHORITIES

This Subpart lists a number of statutes that establish standards to which employee conduct must conform. These include the criminal conflict of interest statutes (18 U.S.C. 201-209), which prohibit bribery, supplementation of salary, certain representations to the government, and certain post-employment activities, and laws prohibiting certain contracting practices and nepotism.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

ANNOUNCEMENT NO. 45

DATE: May 5, 1994

TO: All NRC Employees

SUBJECT: NEW NRC SUPPLEMENTAL STANDARDS OF CONDUCT
REGULATIONS; ETHICS TRAINING; HONORARIA BAN UPDATE

SUPPLEMENTAL CONDUCT REGULATIONS

On April 13, 1994, the NRC, with the concurrence of the Office of Government Ethics (OGE), published the attached regulations for NRC employees that supplement the government-wide standards of ethical conduct issued by OGE (Attachment A). These supplemental regulations prescribe the rules for NRC employees on outside employment and security ownership, two areas not specifically addressed in the OGE regulations.

The supplemental regulations will take effect on July 12, 1994. On that date, two Management Directives implementing those regulations will also take effect and the current NRC conduct regulations on outside employment and security ownership contained in 10 CFR Part 0 will be repealed. Until July 12, 1994, the current rules and the most recent prohibited securities list (published on December 14, 1993) apply.

The supplemental regulations do not substantially change the longstanding NRC rules on outside employment and security ownership, with these exceptions relating to security ownership: (1) a new prohibition on ownership of a limited number of energy or utility sector mutual funds and (2) a new reporting obligation for employees who acquire prohibited securities through such means as gifts or inheritance or because the security was added to the prohibited securities list. The following is a summary of the new regulations.

I. Prohibited Securities

Current Restriction

The NRC conduct regulations in effect until July 12, 1994, prohibit certain employees from holding any stocks, bonds, or other securities issued by major entities in the commercial nuclear field that are specifically named in a list published annually by the Office of the General Counsel. This prohibition

extends to all employees who occupy a position at or above GG-13 or its equivalent, employees below GG-13 in positions with certain occupational codes, and members of the Advisory Committee on Reactor Safeguards (ACRS), the Advisory Committee on Nuclear Waste (ACNW), and the Atomic Safety and Licensing Board Panel (ASLBP). It also prohibits the spouses, minor children, and other members of the household of these employees from owning any securities issued by entities on the prohibited securities list. This prohibition can be waived on a case-by-case basis if the Chairman determines that it would be inequitable to require divestiture of the prohibited security.

Changes under the Supplemental Regulation (5 CFR § 5801.102)

A. Who will be subject to the restriction:

The new supplemental regulation will continue to subject to the prohibited securities restriction all senior NRC officials, which include the Commissioners, the Inspector General, members of the Senior Executive Service, employees who hold a non-SES position above GG-15, and members of the ACRS, ACNW, and ASLBP.

Employees in grades GG-15 or below who have duties and responsibilities that require participation in policy deliberations affecting entities on the prohibited securities list will be covered by the restriction. The positions of these employees will be specifically listed in the management directive implementing this regulation (MD 7.7). Employees will be provided a list of positions covered by the restriction as soon as Management Directive 7.7 has been finalized. This directive will be published by July 12, 1994. With some exceptions (such as employees who have administrative or information resource management responsibilities), almost all employees who file financial disclosure statements will be subject to the security ownership restriction.

The securities restriction will also apply to the spouses and minor children of all employees subject to the prohibition. However, other members of the employee's household will no longer be barred from holding prohibited securities because, under the government-wide standards of conduct, the scope of the prohibition cannot extend beyond the employee's spouse and minor children.

B. Categories of Prohibited Entities

The regulation also makes some minor revisions to the current restriction by adding securities issued by applicants for or holders of design approvals or combined construction permits and operating licenses issued under 10 CFR Part 52 and securities issued by State or local governments to finance low-level waste facilities.

For the first time, the restriction will include energy or utility sector mutual funds that have invested more than 25 percent of their assets in prohibited securities. The security ownership restriction does not encompass mutual funds whose primary objective does not include investing in the energy or utility sectors, regardless of the percentage of NRC prohibited securities found their portfolio. Future prohibited securities lists will include the names of energy or utility mutual funds which have investments in excess of 25 percent in prohibited securities. The next prohibited securities list, which will be published in July 1994, will contain the mutual funds listed in Attachment B to this memorandum. Employees covered by the security restriction will be required to divest their holdings in any of these funds by October 10, 1994, which is 90 days after the effective date of the supplemental regulations.

Employees liable for capital gains taxes resulting from the sales of these funds may wish to contact OGC about obtaining a certificate of divestiture from the Office of Government Ethics which would permit the deferral of any capital gains tax. (An employee should not sell the fund before obtaining the certificate.)

C. Period for Compliance

Consistent with the OGE regulations, this regulation provides a uniform 90-day period for divestiture of any prohibited securities. The NRC Chairman may extend the date for divestiture in cases of undue hardship.

The time frames for complying with the restriction have been modified. Currently, employees have 30 days to comply after commencing employment or being promoted to a position covered by the security ownership prohibitions; one year for any security newly added to the prohibited security list; and a reasonable time to dispose of securities obtained involuntarily, such as through inheritance, gift, or marriage.

D. Waivers

The criteria for granting waivers from the security ownership prohibition have been modified to provide more specificity. The new regulation will authorize the NRC Chairman to grant a waiver: (1) if, under the circumstances, application of the prohibition is not necessary to ensure confidence in the impartiality and objectivity with which NRC programs are administered; (2) legal constraints prevent divestiture; or (3) for special Government employees, divestiture would result in substantial financial hardship.

An example of the second category (legal constraint preventing divestiture) would be a situation in which the prohibited

security is held as part of the assets of a trust of which the employee is a beneficiary and where the trustee, who has sole authority to purchase and sell the assets, refuses the employee's request to sell the prohibited security.

E. Elimination of Annual Certification of Compliance

Under this regulation, employees will no longer be required to certify annually that they are in compliance with the security restrictions. There is inadequate justification for continuing this requirement because the annual certifications have rarely revealed ownership of prohibited securities. The NRC will continue to require employees to certify compliance when they are appointed to a position covered by the restriction or promoted for the first time to a position covered by the restriction.

Employees who obtain prohibited securities after their initial certification either involuntarily (such as through inheritance, gift, or marriage), or as a result of additions to the prohibited securities list will be required to report these securities to OGC in writing within 30 days of acquisition or appearance on the prohibited securities list, as appropriate. Employees must also inform OGC when the security is divested. For example, employees who hold mutual funds listed on the next prohibited securities list will be required to inform OGC of these holdings within 30 days after the publication date of the list and again when the employee's shares in the fund are divested.

II. Prior Approval for Outside Employment (5 CFR § 580.103)

The new regulation retains the requirement that NRC employees obtain prior written approval before engaging in any outside employment with entities that are regulated by or have business with the Commission. Special Government employees (employees appointed to perform temporary duties either on a full-time or intermittent basis for a period not to exceed 130 days during any consecutive 365-day period) are not subject to this requirement. The preamble to the regulation reiterates NRC policy to encourage teaching, lecturing, or writing not prohibited by the conduct regulations or other applicable law.

The Management Directive implementing this provision (MD 7.8) will be published by July 12, 1994. It will include specific procedures for obtaining approval of such outside employment. The Directive will provide that employees in offices reporting to the Executive Director for Operations (EDO) must obtain approval from the EDO or Deputy EDO. For Commission-level offices, approval must be obtained from the employee's office director.

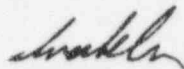
ETHICS TRAINING

The OGC will provide annual ethics training from September through November 1994. The OGE regulations on ethics training require that all employees who file a financial disclosure form receive one hour of ethics training each year. The training for Headquarters employees will be held in the new auditorium in Two White Flint North. The Regional Counsels will provide training to employees in their region. Details on ethics training will be provided in the coming months.

HONORARIA BAN

On April 18, 1994, the Supreme Court granted the Department of Justice's petition for certiorari in the case challenging the constitutionality of the statute prohibiting Federal employees from receiving any honoraria for an appearance, speech, or article. On September 28, 1993, the Court of Appeals for the District of Columbia had held that this ban is unconstitutional.

The effect of the Supreme Court's action is that the Court will hear this case, but a decision is not expected before July 1995. In the interim, the Department of Justice has stated that it will continue its policy to take no legal action against any employee who receives an honorarium between September 28, 1993, and the date the Supreme Court decides on the constitutionality of the ban even if the Supreme Court were to reverse the Court of Appeals decision.



Ivan Selin
Chairman

Attachments:

- A. New NRC Supplemental Conduct Regulations
- B. List of Mutual Funds That Will be Added to
NRC's Next Prohibited Securities List

ATTACHMENT A

New NRC Supplemental Conduct Regulations

Rules and Regulations

Federal Register

Vol. 59, No. 71

Wednesday, April 13, 1994

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

5 CFR Chapter XLVIII

10 CFR Part 0

RINs 3209-AA15 and 3150-AE80

Supplemental Standards of Ethical Conduct for Employees of the Nuclear Regulatory Commission

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC), with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for employees of the Nuclear Regulatory Commission that supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. These supplemental regulations address outside employment by NRC employees and ownership of securities by NRC employees, their spouses, and minor children. The NRC is also repealing its current regulations on those subjects, while adding a cross-reference to the new provisions and preserving certain separable financial interest exemptions.

EFFECTIVE DATE: Final rule effective July 12, 1994.

FOR FURTHER INFORMATION CONTACT: John Szabo, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephones: 301-504-1606.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) for codification at 5 CFR part 2635. See 57 FR 35006-35067, as

corrected at 57 FR 48557 and 57 FR 53583. These Standards, which took effect on February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel.

5 CFR 2635.105 authorizes executive agencies, with concurrence from OGE, to publish agency-specific supplemental regulations that are necessary to implement their ethics programs. The Nuclear Regulatory Commission, with OGE's concurrence, has determined that the following supplemental regulations, being codified in new chapter XLVIII of 5 CFR, consisting of part 5801, are necessary for successful implementation of the NRC's ethics program. By this notice, the Nuclear Regulatory Commission is also repealing the parts of its regulations which were preserved by 5 CFR part 2635 pending issuance of this supplemental regulation (see the additional OGE grace period extension at 59 FR 4779-4780).

II. Analysis of the Regulations

Section 5801.101 General

Section 5801.101 explains that the regulations contained in the final rule apply to all NRC employees, including members of the Commission, and are supplemental to the executive branch-wide standards. Members and employees of the Nuclear Regulatory Commission also are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the executive branch financial disclosure regulations at 5 CFR part 2634, and additional regulations regarding their conduct published by the agency in 10 CFR part 0.

Section 5801.102 Prohibited Securities

5 CFR 2635.403(a) authorizes agencies, by supplemental regulation, to prohibit or restrict the acquisition or holding of a financial interest or a class of financial interests by agency employees based on a determination that the acquisition or holding of such interests would cause reasonable persons to question the impartiality and objectivity with which agency programs are administered. Where it is necessary to the efficiency of the service, such prohibitions or restrictions may be extended to employees' spouses and minor children.

By 10 CFR 0.735-29, the Commission has long prohibited most of its employees, their spouses, minor

children, and other members of their households, from holding stocks, bonds, and other securities issued by major entities in the commercial nuclear field. Section 5801.102 imposes very similar restrictions upon designated employees, their spouses and minor children, based upon the Commission's determination that these restrictions are necessary to maintain public confidence in the impartiality and objectivity with which the NRC executes its regulatory functions. The restrictions also will help to maintain public confidence that sensitive information relating to agency operations is not misused for private gain and will help accomplish the NRC's mission by avoiding widespread disqualification of employees from the performance of their official duties.

Section 5801.102 is narrower in scope than 10 CFR 0.735-29 in that it does not apply to all members of the employee's household. Consistent with 5 CFR 2635.403(a) and 2635.403(c)(1), it restricts only the holdings of designated employees, their spouses, and minor children. The Commission has determined that application of the securities restrictions in § 5801.102 to spouses and minor children is necessary to the efficiency of the service. As evidenced by 10 CFR 0.735-29, the NRC believes it is important to the success of its mission for regulated entities and others affected by agency decisions to have this additional degree of assurance that agency decisions are not influenced by considerations of personal gain on the part of NRC personnel.

In addition to limiting the section's application to employees, their spouses, and minor children, the Commission has made other minor revisions to the restrictions as stated in 10 CFR 0.735-29. The categories of prohibited securities set forth in § 5801.102(b) have been revised to reflect the new types of licenses established in 10 CFR part 52 and to include securities issued by State or local governments to finance low-level waste facilities. Section 5801.102(b)(8) also prohibits employees for the first time from owning securities issued by an energy or utility sector mutual fund that has invested more than 25 percent of the fund's assets in prohibited securities.

The time frames for complying with the security ownership regulations have also been modified. Under 10 CFR 0.735-29, NRC employees have had 30

days to comply after commencing employment or being promoted to a position covered by the security ownership prohibitions; one year to divest any security interest newly added to the agency's prohibited security list; and a "reasonable time" to dispose of securities inherited by gift. Consistent with 5 CFR 2635.403(d), the final rule provides a uniform 90-day period for divestiture, with extension available in cases of undue hardship.

The criteria in § 5801.102(e) for waiving the prohibition on holding a specific security have been modified to provide greater specificity. A criterion has been newly added to cover circumstances in which legal constraints prevent divestiture. One example of such a legal constraint would be the situation in which the prohibited security is held as part of the assets of a trust of which the employee is a beneficiary and where the trustee, who has sole authority to purchase and sell the assets, refuses the employee's request to sell the prohibited security.

The Commission has eliminated the requirement contained in 10 CFR 0.735-29 that employees who are subject to the security ownership restrictions certify each year that they are in compliance. Because the annual certifications have rarely revealed violations of the substantive restrictions, there is inadequate justification for continuing this requirement. However, to monitor compliance, the NRC will continue to require employees holding designated positions to certify compliance upon commencement of employment with the agency or upon promotion for the first time to a position covered by the security ownership restriction. Agency employees will also be required to report to the Office of the General Counsel in writing any prohibited securities obtained after the initial certification. This will permit the Office of the General Counsel to track required divestitures.

On the effective date of this regulation, the NRC will issue Management Directive 7.7 and its accompanying Handbook which lists those agency positions covered by the security ownership restrictions. The Handbook will also describe procedures for obtaining Certificates of Divestiture and waivers from the security ownership restrictions. Both the Management Directive and Handbook will be available at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555-0001. Copies will also be available in each NRC Office.

Section 5801.103 Prior Approval for Outside Employment

5 CFR 2635.803 authorizes individual agencies, by supplemental regulation, to require agency employees to obtain approval before engaging in outside employment or other outside activities. The NRC has long had the prior approval requirement, set forth in 10 CFR 0.735-40. Section 5801.103 of the final rule retains the requirement that NRC employees obtain prior written approval before engaging in outside employment with entities that are regulated by or have business with the Commission. The NRC policy has been, and will continue to be, to encourage teaching, lecturing, or writing not prohibited by 5 CFR part 2635 or other applicable law.

The agency designees for approval of outside employment and internal agency procedures for obtaining the necessary approvals will be set forth in NRC Management Directive 7.8 and the accompanying Handbook. This Directive and Handbook will be issued on the effective date of this regulation and will be available in the NRC Public Document Room and in each NRC Office.

III. Repeal of Superseded Portions of the NRC Conduct Regulations and Related Modifications

The final rule repeals the NRC conduct regulations 10 CFR 0.735-8, 0.735-29, and 0.735-40, effective on the same day that this rule takes effect. The information collection requirements of § 0.735-8 are no longer necessary. Section 0.735-29 will be superseded by the prohibitions on securities contained in 5 CFR 5801.102 and § 0.735-40 will be superseded by the requirements for prior approval of outside employment contained in 5 CFR 5801.103. These repeals, together with those effected by 58 FR 3825 and 29951, leave in 10 CFR part 0 only the waiver provisions of §§ 735-21 (a) and (b) which are preserved by 5 CFR 2635.402(d)(1). These paragraphs are redesignated § 0.735-2 (a) and (b) to follow a new § 0.735-1 which provides a cross-reference to the NRC's supplemental regulation and to the executive branch-wide financial disclosure and standards of ethical conduct regulations at 5 CFR parts 2634 and 2635.

IV. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), the NRC finds good cause not to seek public comment on this rule. Such comment is unnecessary because the NRC is essentially repromulgating existing

regulations in a different form, and the regulations pertain wholly to internal agency personnel matters that affect only NRC employees, their spouses, and minor children. To increase the likelihood of a smooth transition from the NRC's prior ethics rules to the new Government-wide standards of ethical conduct regulations, these rulemaking actions should take place as soon as possible. The rule and accompanying repeals will become effective 90 days after the date of publication in the Federal Register.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusions 10 CFR 51.22(c) (1) and (2). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared for this final regulation.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

The NRC is promulgating a supplemental regulation to OGE's Government-wide standards of conduct regulations in order to implement effectively the NRC's ethics program. This rule has no significant impact on health, safety or the environment. There is no substantial cost to licensees, the NRC, OGE, or other Federal agencies.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities because it affects only NRC employees.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required for this final rule because these supplemental regulations do not involve any provisions which would impose backfits as defined in 10 CFR 50.109.

List of Subjects

5 CFR Part 5801

Conflict of interests, Government employees.

10 CFR Part 0

Conflict of interests, Criminal penalties.

Dated at Rockville, Maryland, this 23rd day of March, 1994.

For the Nuclear Regulatory Commission,
Samuel J. Chiff.

Secretary of the Commission.

Approved: March 31, 1994.

Stephen D. Potts.

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Nuclear Regulatory Commission, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations and title 10, chapter I, of the Code of Federal Regulations as follows:

TITLE 5—(AMENDED)

1. A new chapter XLVIII, consisting of part 5801, is added to title 5 of the Code of Federal Regulations to read as follows:

5 CFR CHAPTER XLVIII—NUCLEAR REGULATORY COMMISSION

PART 5801—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NUCLEAR REGULATORY COMMISSION

Sec.

5801.101 General.

5801.102 Prohibited securities.

5801.103 Prior approval for outside employment.

Authority: 5 U.S.C. 7201; 5 U.S.C. App. (Ethics in Government Act of 1978); 42 U.S.C. 2201, 5841; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306, 5 CFR 2635.105, 2635.403, 2635.803.

§ 5801.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to members and other employees of the Nuclear Regulatory Commission and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the standards in 5 CFR part 2635 and this part, members and other employees are subject to the executive branch financial disclosure regulations contained in 5 CFR part 2634 and to additional regulations regarding their conduct contained in 10 CFR part 0.

§ 5801.102 Prohibited securities.

(a) *General prohibition.* No covered employee, and no spouse or minor child of a covered employee, shall own securities issued by an entity on the list described in paragraph (b) of this section.

(b) *Prohibited securities list.* Once a year, or on a more frequent basis, the

Commission will publish and distribute to employees a list of entities whose securities a covered employee or the spouse or minor child of a covered employee may not own. The list shall consist of entities which are:

(1) Applicants for or holders of early site permits, construction permits, operating licenses, or combined construction permits and operating licenses for facilities which generate electric energy by means of a nuclear reactor;

(2) State or local governments, if the primary purpose of the security is to finance the construction or operation of a nuclear reactor or a low-level waste facility;

(3) Entities manufacturing or selling nuclear power or test reactors;

(4) Architectural-engineering companies providing services relating to a nuclear power reactor;

(5) Applicants for, or holders of, a certified standard design;

(6) Entities licensed or regulated by the Commission to mill, convert, enrich, fabricate, store, or dispose of source, byproduct, or special nuclear material, or applicants for such licenses that are designated by the Commission because they are or will be substantially engaged in such nuclear fuel cycle or disposal activities;

(7) The parent corporation of any subsidiary described in paragraphs (b)(1)–(b)(6) of this section; and

(8) An energy or utility sector investment fund which has more than 25% of its assets invested in securities issued by entities described in paragraphs (b)(1)–(b)(7) of this section.

(c) *Definitions.* For purposes of this section:

(1) A covered employee means:

(i) A member of the Commission;

(ii) The Inspector General of the NRC;

(iii) A member of the Senior Executive Service (SES);

(iv) An employee who holds a non-SES position above GS-15; and

(v) Any other employee, including a special Government employee, whose duties and responsibilities, as determined by the Commission or its designees, require application of the securities ownership prohibition contained in this section to ensure public confidence that NRC programs are conducted impartially and objectively. The positions of these employees are specified in NRC Management Handbook 7.7, which is available in the NRC Public Document Room; and

(2) The term "securities" includes all interests in debts or equity instruments. The term includes, without limitation, secured and unsecured bonds,

debentures, notes, securitized assets and commercial paper, as well as all types of preferred and common stock. The term encompasses both current and contingent ownership interests, including any beneficial or legal interest derived from a trust. It extends to any right to acquire or dispose of any long or short position in such securities and includes, without limitation, interests convertible into such securities, as well as options, rights, warrants, puts, calls, and straddles with respect thereto.

(d) *Divestiture and reporting of prohibited securities.*—(1) *Newly covered employees.* Upon promotion or other appointment to a position subject to the securities prohibition of this section, a covered employee shall sign a certification:

(i) Identifying securities of an entity on the prohibited securities list which the employee, or the spouse or minor child of the employee, owns, or

(ii) Stating that the employee, or the spouse or minor child of the employee, does not own any prohibited securities.

Except as provided in paragraph (d)(4) of this section, the newly covered employee, or the spouse or minor child of the employee, shall divest prohibited securities within 90 days after appointment to the covered position.

(2) *Newly prohibited securities.* Within 30 days after publication of the prohibited securities list to which an entity's name has been added, a covered employee who owns, or whose spouse or minor child owns, prohibited securities shall make a written report of that ownership to the Office of the General Counsel. Except as provided in paragraph (d)(4) of this section, the covered employee, or the spouse or minor child of the covered employee, shall divest prohibited securities within 90 days after publication of the prohibited securities list.

(3) *Securities acquired without specific intent.* Within 30 days after a covered employee, or the spouse or minor child of a covered employee, acquires securities of an entity on the prohibited securities list as a result of marriage, inheritance, gift or otherwise without specific intent to acquire the securities, the covered employee shall make a written report of the acquisition to the Office of the General Counsel. Except as provided in paragraph (d)(4) of this section, a covered employee, or the spouse or minor child of a covered employee, shall divest prohibited securities within 90 days after the date of acquisition.

(4) *Extension of period to divest.* Upon a showing of undue hardship, the Chairman of the Nuclear Regulatory

Commission may extend the 90 day period for divestiture specified in paragraphs (d)(1) through (d)(3) of this section.

(5) *Disqualification pending divestiture.* Pending divestiture of prohibited securities, a covered employee must disqualify himself or herself, in accordance with 5 CFR 2635.402, from participation in particular matters which, as a result of continued ownership of the prohibited securities, would affect the financial interests of the employee, or those of the spouse or minor child of the employee. Disqualification is not required where a waiver described in 5 CFR 2635.402(d) applies. Procedures for obtaining individual waivers are contained in NRC Handbook 7.7, which is available in the NRC Public Document Room.

(6) *Tax treatment of gain on divested securities.* Where divestiture is required by this section, the covered employee (except a special Government employee) may be eligible to defer the tax consequences of divestiture under subpart j of 5 CFR part 2634, pursuant to procedures in NRC Handbook 7.7, which is available in the NRC Public Document Room.

(e) *Waivers.* (1) The Chairman may grant a waiver to permit a covered employee, or the spouse or minor child of a covered employee, to retain ownership of a security of an entity on the prohibited securities list upon a determination that the holding of the security is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and that:

(i) Under the circumstances, application of the prohibition is not necessary to ensure confidence in the impartiality and objectivity with which NRC programs are administered;

(ii) Legal constraints prevent divestiture; or

(iii) For a special Government employee, divestiture would result in substantial financial hardship.

(2) Where a waiver has been granted under paragraph (e)(1) of this section, the covered employee must disqualify himself or herself, in accordance with 5 CFR 2635.402, from participation in particular matters which, as a result of continued ownership of the prohibited security, would affect the financial interests of the employee, or those of the spouse or minor child of the employee unless the employee has received a waiver described in 5 CFR 2635.402(d), pursuant to procedures in NRC Handbook 7.9, which is available in the NRC Public Document Room.

§ 5801.103 Prior approval for outside employment.

(a) An employee, other than a special Government employee, shall obtain written authorization before engaging in compensated outside employment with:

- (1) A Commission licensee;
- (2) An applicant for a Commission license;
- (3) An organization directly engaged in activities in the commercial nuclear field;
- (4) A Commission contractor;
- (5) A Commission supplier;
- (6) An applicant for or holder of a license issued by a State pursuant to an agreement between the Commission and the State;

(7) A trade association which represents clients concerning nuclear matters; or

(8) A law firm or other organization which is participating in an NRC proceeding or which regularly represents itself or clients before the NRC.

(b) Requests for approval shall be submitted in writing to the agency designee specified in NRC Management Directive 7.8, which is available in the NRC Public Document Room, in accordance with procedures set forth in the accompanying NRC Handbook.

(c) Approval of outside employment shall be granted in writing only upon a determination by the agency designee that the proposed outside employment would not violate a Federal statute or regulation, including 5 CFR 2635.

(d) For purposes of this section, "outside employment" means any form of non-Federal employment, business relationship or activity, involving the provision of personal services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker.

10 CFR CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 0—CONDUCT OF EMPLOYEES

2. The authority citation for part 0 is revised to read as follows:

Authority: Secs. 25, 161, 68 Stat. 9925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306, 5 CFR 2635.105 and 2635.402(d)(1). Section 0.735-2, also issued under 5 U.S.C. 552, 553.

3. A new § 0.735-1 is added to read as follows:

§ 0.735-1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Nuclear Regulatory Commission (NRC) are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the NRC regulation at 5 CFR part 5801 which supplements the executive branch-wide standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

4. Section 0.735-21 is redesignated as § 0.735-2 and the heading is revised to read thereof, "Exemptions for financial interests."

§ 0.735-8, 0.735-29 and 0.735-40 [Removed]

5. Sections 0.735-8, 0.735-29 and 0.735-40 are removed.

[FR Doc. 94-8691 Filed 4-12-94, 8:45 am] BILLING CODE 7580-10-P

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

7 CFR Part 1610

Rural Electrification Administration

7 CFR Parts 1735, 1737, 1744, 1753

Rural Telephone Bank and Telephone Program Loan Policies, Procedures, and Requirements; and Telecommunications System Construction Policies and Procedure

AGENCY: Rural Electrification Administration and Rural Telephone Bank, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) adopts, except the State Telecommunications Modernization Plan, its interim rule published December 20, 1993, as a final rule with minor technical changes. The action makes changes to the telephone program required by the Rural Electrification Loan Restructuring Act 1993 (RELRA or legislation).

EFFECTIVE DATE: May 13, 1994.

FOR FURTHER INFORMATION CONTACT: Matthew P. Link, Director, Rural Telephone Bank Management Staff, Rural Electrification Administration, U.S. Department of Agriculture, 14th Independence Avenue, SW., room 2832-S, Washington, DC 20250-150 telephone number (202) 720-0530.

ATTACHMENT B

List of Mutual Funds That Will be Added to
NRC's Next Prohibited Securities List



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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May 18, 1994

MEMORANDUM FOR: NRC Special Government Employees

FROM: James A. Fitzgerald
Assistant General Counsel for
Legal Counsel, Legislation
and Special Projects

SUBJECT: ANNUAL ETHICS TRAINING

The government-wide regulations on ethics training issued by the Office of Government Ethics require that all employees who file a financial disclosure report be provided each year with a minimum of one hour of ethics training rendered verbally. In the case of special Government employees (SGEs), an agency may meet the annual training requirement by distribution of written materials. 5 C.F.R. § 2638.704(d)(2)(ii).

To fulfill this requirement, I am providing, as the deputy NRC ethics official, the attached information addressing:

- DEFINITION OF SPECIAL GOVERNMENT EMPLOYEE
- CRIMINAL CONFLICT OF INTEREST STATUTES
- RECENT CHANGES ON CONFIDENTIAL FINANCIAL DISCLOSURE
- POLITICAL ACTIVITIES
- RELEVANT STANDARDS OF CONDUCT REGULATIONS
- EMPLOYMENT BY OR GIFTS FROM FOREIGN GOVERNMENTS
- NRC SUPPLEMENTAL CONDUCT REGULATIONS

I hope that you find this material useful. If you have any questions about this material or other ethics matters, please do not hesitate to contact a deputy ethics counselor in our office at 504-1607. Because violations of ethics provisions constitute violations of Federal criminal law or conduct regulations, it is important that special Government employees seek advice before acting in any matter where there is any question about the scope or application of ethics laws or regulations.

James A. Fitzgerald
Assistant General Counsel for
Legal Counsel, Legislation
and Special Projects

Attachment:
Ethics Training Materials

ATTACHMENT

Who is a Special Government Employee

The legal definition of a "special Government employee" in the executive branch is an officer or employee who is retained, designated, appointed, or employed to perform temporary duties on a full-time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days. 18 U.S.C. § 202(a); 5 C.F.R. § 2635.102(1).

Thus, if an SGE works on NRC business in excess of 130 days during any period of 365 consecutive days, a determination must be made whether the employee has moved out of the SGE category for purposes of the conflict of interest statutes.¹ Office of Government Ethics guidelines for this determination are as follows:

1. An SGE who is not expected to exceed the 130-day limit at the time of appointment, but who happens to exceed that limit during the year, will not be considered to have become a regular Government employee. However, in that situation, a new estimate of the number of days on which the employee is expected to perform duties should be made at the end of the year. (The OGC Division of Legal Counsel, Legislation and Special Projects should be consulted if the projected number of days of duty remains at 130 days or less for the following year, but the employee again exceeds the limit.)
2. An SGE who moves into a position (e.g., chairman of a Federal advisory committee) that invariably entails service that exceeds the 130-day limit will be considered a regular Government employee for conflict of interest purposes during the period in which he or she occupies that position.

Criminal Conflict of Interest Statutes

The criminal conflict of interest statutes (18 U.S.C. §§ 201-208) apply to SGEs as follows:

- o 18 U.S.C. § 201 -- Section 201 prohibits Federal employees and SGEs from seeking, accepting, or agreeing to receive anything of value in return for being influenced in the performance or nonperformance of an official act.

¹ A part of a day should be counted as a full day for purposes of determining how many days an individual has worked in a year, as well as for purposes of estimating how many days an individual is expected to perform duty during an upcoming year. Note that the fact that an employee is considered to have moved out of the SGE category for conflict of interest purposes does not necessarily change the status of the employee for purposes of application of Federal personnel rules.

- 18 U.S.C. § 203 -- Section 203 prohibits an SGE from receiving compensation from a non-Government party for representational services rendered by the employee or another person before a Federal agency or other specified entity on any particular matter involving a specific party (i) in which the SGE has participated personally and substantially as a Government employee or SGE, or (ii) which is pending in the Government agency in which the SGE is serving if the SGE has served for more than 60 days during the immediately preceding 365 days.
- 18 U.S.C. § 205 -- Section 205 prohibits an SGE from representing a non-Government party, with or without compensation, before a Federal agency or other specified entity on any particular matter in which the United States is a party or has a direct and substantial interest (i) that the SGE participated in personally and substantially as a Government employee or SGE, or (ii) which is pending in the agency in which the SGE is serving if the SGE has served for more than 60 days during the immediately preceding 365 days.
- 18 U.S.C. § 207 -- Section 207 imposes a life-time ban on a former SGE in representing another person to any Federal agency or other specified entity on any particular matter involving a specific party in which the former SGE participated personally and substantially while serving the Government. Section 207 contains other restrictions, none of which pertain to NRC SGEs. There are exceptions to these restrictions and provisions for waivers. SGEs should contact the Office of the General Counsel regarding such exceptions or waivers.
- 18 U.S.C. § 208 -- Section 208(a) prohibits an SGE from participating personally and substantially in any particular matter that could affect the SGE's financial interest or the financial interest of the SGE's spouse, minor child, general partner, an organization in which the SGE serves as an officer, director, trustee, general partner, or employee, or an organization with which the SGE is negotiating or with which the SGE has an arrangement for prospective employment.

Section 208(b) (1) authorizes issuing a waiver to this restriction from the SGE's appointing official if the official determines in writing in advance that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the SGE. In addition, section 208(b) (3) authorizes issuance of a waiver to an SGE who serves on a committee subject to the Federal Advisory Committee Act if the official responsible for the individual's appointment certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the particular financial interest involved.

ATOMIC ENERGY ACT EXCEPTION: The Atomic Energy Act exempts members of NRC advisory committees from the provisions of 18 U.S.C. §§ 203, 205, and 207 for uncompensated activities relating to particular matters that directly involve the NRC or in which the NRC is directly interested. 42 U.S.C. § 2203. Advisory committee members should contact OGC for further details concerning this exemption.

Changes to Confidential Financial Disclosure Reporting Requirements

Special Government employees must file a financial disclosure report when first appointed and every year thereafter. 5 C.F.R. Part 2634. Those who work or are expected to work for the NRC for more than 60 days during a calendar year and are paid at a rate above the GS-15 level must file a public financial disclosure report (SF 278) by May 15 of each year. All others must file a confidential financial disclosure report (SF 450) annually, usually when reappointed as an SGE.

On November 30, 1993, the Office of Government Ethics published a final rule amending the requirements for what must be reported on the confidential financial disclosure form (SF 450). As of that date, individuals filing a confidential statement are no longer required to report the following assets:

- accounts (including both demand and time deposits) in depository institutions, including banks, savings and loan associations, credit unions, and similar depository financial institutions;
- money market mutual funds and accounts;
- U.S. Government obligations, including Treasury bonds, bills, notes, and savings bonds; and
- Government securities issued by U.S. Government agencies.

This exception does not apply to an SGE who must file a public financial disclosure report (SF 278). The Office of Government Ethics is developing a new confidential disclosure report that will specify these exclusions.

Political Activities

The Hatch Act (5 U.S.C. §§ 7321-7328) prescribes the restrictions on the political activities of Federal employees. (See Employee Announcement No. 89 (November 4, 1993) for a description of these restrictions under the Hatch Act, as recently amended.) SGEs are only subject to the Hatch Act during the 24-hour period of any day in which they are actually performing Government business.

Standards of Conduct

The following are some of the major standards of conduct regulations (5 C.F.R. Part 2635) that pertain to special Government employees:

I. Outside Teaching, Speaking, and Writing

SGEs are prohibited from receiving compensation for outside teaching, speaking, and writing that "relates to the employee's official duties." 5 C.F.R. § 2635.807. The "relatedness" test is met for an SGE if:

(A) the activity is undertaken as an official Government duty;

(B) the circumstances indicate that the invitation to engage in the activity was extended to the SGE primarily because of the employee's official position rather than the employee's expertise on the particular subject matter;

(C) the invitation to engage in the activity or the offer of compensation for the activity was extended to the employee, directly or indirectly, by a person who has interests that may be affected substantially by the performance or non-performance of the employee's official duties;

(D) the information conveyed through the activity draws substantially on ideas or official data that are non-public information; or

(E) the subject of the activity deals in significant part with any matter the SGE is presently assigned or was assigned during the previous one-year period. (However, if the SGE has not served or is not expected to serve for more than 60 days during any one-year period of appointment, then the "relatedness" focuses not on assigned matters but only on particular matters involving specific parties in which the SGE participated or is participating personally and substantially.)

EXCEPTIONS:

1. This provision does not preclude an SGE from receiving compensation for teaching, speaking, or writing on a subject within the SGE's discipline or inherent area of expertise based on the SGE's educational background or experience, even though the activity deals generally with a subject within the agency's areas of responsibility.

2. These restrictions also do not apply for teaching a course requiring multiple presentations that is part of the regularly established curriculum of an institution of higher education, an

elementary or secondary school, or a program of education or training sponsored and funded by the Federal, State or local government.

II. Gifts

The regulations prohibit SGEs from accepting gifts given directly or indirectly from "prohibited sources"² or given because of the SGE's Federal position. There are exceptions to this prohibition, such as gifts resulting from the SGE's outside business or employment activities if it is clear that the gift was not offered because of the SGE's NRC status. 5 C.F.R. §§ 2635.202, 2635.204. Other exceptions to this prohibition include:

- Non-cash gifts valued at \$20 or less, with a maximum value of \$50 during a calendar year from any one source;
- Attendance at "widely-attended" gatherings (e.g. those open to members from throughout a given industry or profession); and
- Gifts based on a pre-existing personal relationship, such as a family member or close friend.

The gift regulations also prohibit SGEs from accepting an honorary degree from an institution of higher learning which is a "prohibited source," such as a university which has an NRC license, unless the agency ethics official determines in writing that acceptance of the degree would not cause a reasonable person to question the SGE's impartiality. The ethics official must also approve acceptance of any award valued at more than \$200 for meritorious public service or achievement from a "prohibited source."

III. Fundraising

An SGE may engage in fundraising in a personal capacity as long as the SGE does not personally solicit funds or other support from anyone known to the SGE to be a person whose interests may be substantially affected by the performance or nonperformance of the SGE's Federal duties. 5 C.F.R. § 2535.808.

IV. Expert Witness

An SGE cannot serve as an expert witness in a proceeding before a United States court or agency in which the United States is a party or has a direct and substantial interest, except on behalf of the United States, if the SGE participated while a Federal

² A "prohibited source" includes NRC licensees or contractors or those whose interests may be substantially affected by the SGE's performance or nonperformance of official duties.

employee or SGE in the particular proceeding, unless authorized by the designated agency ethics official.

In addition, an SGE who was appointed by the President, serves on a commission established by statute, or has served or is expected to serve for more than 60 days in a period of 365 consecutive days, cannot serve, other than on behalf of the U.S., as an expert witness, with or without compensation, in any proceeding before a U.S. court or agency in which the SGE's employing agency is a party or has a direct and substantial interest unless authorized by the designated agency ethics official. 5 C.F.R. § 2635.805.

V. Impartiality

The regulations provide that SGEs should not participate in any particular NRC matter involving specific parties which the SGE knows is likely to have a direct and predictable affect on the financial interests of a member of his or her household, or which the SGE knows that a person with whom he or she has a "covered relationship" is or represents a party to that matter, if the SGE determines that a reasonable person with knowledge of the relevant facts would question the SGE's impartiality in the matter. A waiver to this restriction can be granted by the SGE's office director or committee chairman. 5 C.F.R. § 2635.501, MD 7.9.

A "covered relationship" includes anyone with whom the SGE has a business, contractual, or other financial relationship; a relative with whom the SGE has a close personal relationship; a person or entity that the SGE's spouse, parent, or dependent child serves as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee; and a person or entity that the SGE served during the past year as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee. 5 C.F.R. § 2635.502(b)(1).

VI. Misuse of Position

SGEs are prohibited from using their NRC title or position for their own private gain, the endorsement of any product, service, or enterprise, or the private gain of friends, relatives, or anyone with whom they are affiliated in a nongovernmental capacity, including nonprofit organizations they serve as officers, members, employees, or in any other business relationship. They cannot use their title or position to coerce or induce another person to provide any benefit to themselves or another person.

SGEs are also prohibited from using non-public NRC information in a financial transaction to further their private interest or that of another, or from disclosing non-public information without

authorization. SGEs are not allowed to use Government property for unauthorized purposes. 5 C.F.R. Part 2635, Subpart G.

Employment by or Gifts From Foreign Governments

There are constitutional limitations to an SGE's employment by a foreign government, including political subdivisions of a foreign government. U.S. Constitution, art. I., § 9, cl. 8. There are also statutory provisions restricting acceptance of gifts from foreign governments. 5 U.S.C. § 7342. SGEs should consult with the Office of the General Counsel for details about these restrictions.

NRC Supplemental Conduct Regulations

The NRC, with the Office of Government Ethics, published, on April 13, 1994, supplemental regulations to the government-wide standards of conduct regulations. 5 C.F.R. §§ 5801.101-5801.103. These regulations will take effect on July 12, 1994. By that same date, the NRC's implementing management directives will be published. (Employee Announcement No. 45 (May 5, 1994) contains more details about these regulations including a copy of them.)

The only SGEs affected by the supplemental regulations are members of the Advisory Committee on Reactor Safeguards, the Advisory Committee on Nuclear Waste, and the Atomic Safety and Licensing Board Panel. These members are prohibited from owning any securities issued by major entities in the nuclear field that are specified on a list published annually by the Office of the General Counsel. The security ownership prohibition also extends to the spouse and minor children of these members, but no longer includes other members of their household. The new regulation also eliminates the annual certification of compliance with the restriction.

The new regulation modifies the criteria for granting a waiver to this restriction. It provides that the Chairman can grant a waiver to an SGE if divestiture of the prohibited security would result in substantial financial hardship. (Under this change, the general practice would be that an exemption would only be granted to permit an ACRS or ACNW member to hold prohibited securities held at the time of appointment to the Committee or which were subsequently acquired involuntarily, through marriage, gift, or inheritance. After appointment, members would be barred from purchasing prohibited securities on their own accord.)



UNITED STATES
NUCLEAR REGULATORY COMMISSION

ANNOUNCEMENT NO. 83

DATE: October 26, 1995

TO: All NRC Employees

SUBJECT: REVISED LIST OF STOCKS, BONDS, AND OTHER SECURITY INTERESTS THAT CERTAIN NRC EMPLOYEES ARE PROHIBITED FROM OWNING

Revised List of Prohibited Securities

Attached is a revised list of entities whose stocks, bonds, and other security interests may not be owned by certain NRC employees, their spouses, or minor children.

This prohibition applies to all senior employees; members of the Advisory Committee on Reactor Safeguards, the Advisory Committee on Nuclear Waste, and the Atomic Safety and Licensing Board Panel; and employees at grade GG-15 or below with regulatory responsibilities whose position is listed in Management Handbook 7.7, Exhibit 1.

Employees subject to the restriction as well as their spouses or minor children who own securities issued by entities added to this list must inform OGC in writing of their holdings within 30 days of the date of this Announcement and their plans for divestiture. They have 90 days to divest themselves of these securities unless they receive an extension from the NRC Chairman because of undue hardship.

The Chairman may grant a waiver to the divestiture requirement: (1) if it is not necessary to ensure confidence in the impartiality and objectivity with which NRC programs are administered; (2) if legal constraints prevent divestiture; or (3) for special Government employees only, if divestiture would result in substantial financial hardship.

The attached list changes the most recent list (July 5, 1994) as follows:

Nuclear Utilities: Adds to this category Unicom (the new name for CeCo Holding Company, the parent of Commonwealth Edison) and MidAmerican Energy Company (which merged with Iowa-Illinois Gas Company, the co-owner of Quad Cities).

Architectural Engineering Companies: Adds Duke Engineering Services.

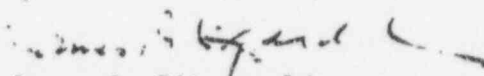
Fuel Cycle Applicants and Licensees: Adds Holtech Corporation; Packaging Technology (PAC TECH); Vectra Corporation; Kaiser Aluminum Specialty Products; Energy Fuels Nuclear, Inc.; Scientific Ecology Group, Inc.; and

Sierra Nuclear Corporation (the new name of Pacific Sierra Nuclear Associates).

Energy or Utility Sector Mutual Funds: Adds AAL Utilities Fund; Benham Utilities Income Fund; Colonial Utilities Fund; Dean Witter Variable Investment Utilities Series; Merrill Lynch Utility Income Fund, Inc.; Paine Webber Utility Income Fund; Putnam Utilities Growth and Income Fund; Smith Barney Funds, Inc.; and Van Kampen American Merrit Utility. Deletes Eaton Vance Total Return Trust; Fidelity Utilities Income Fund; Financial Strategic Utilities Portfolio; Fortress Utility Fund; Franklin Global Utilities Fund; Liberty Utilities Fund; MFS Utilities Fund; Pilgrim Corporate Utilities Fund; and Stratton Monthly Dividend Shares, Inc.

Employees who wish to defer the tax consequences of any divestiture may seek a Certificate of Divestiture. They should not sell their prohibited securities prior to obtaining this certificate. For further details, See Management Handbook 7.7 or contact Lee Cadorette (OGC), 415-1613.

There is no prohibition on the purchase of security interests in entities not on this list. Employees are advised, however, that in the event they, or their spouse or minor children, hold securities worth more than \$1000 in any entity not on this list, they must recuse themselves from participation in any particular matter affecting that entity under 10 C.F.R. § 0.735-2.


James A. Fitzgerald
Assistant General Counsel

Attachment:
List of Prohibited Securities

COMPANIES IN WHICH NRC EMPLOYEES COVERED BY 5 C.F.R. 5801.102
ARE PROHIBITED FROM OWNING STOCK, BONDS,
OR OTHER SECURITY INTERESTS

1. Nuclear Utilities

- Alabama Power Company
- *Alachua Electric Department, FL
- Allegheny Electric Cooperative, Inc.
- American Electric Power Co., Inc.
- *Anaheim Electric Division, CA
- Arkansas Power & Light Company
- **Atlantic Energy, Inc.
(Atlantic City Electric Company)
- *Austin Electric Department, TX
- *Baltimore Gas & Electric Company
- Bangor Hydro-Electric Company
- Boston Edison Company
- *Bushnell Utility Dept., FL
- Cajun Electric Power Cooperative
- Cambridge Electric Light Company
- Canal Electric Light Company
- Carolina Power & Light Company
- Centerior Energy Corp.
(Cleveland Electric Illuminating Co.)
(Toledo Edison Co.)
- Central Hudson Gas & Electric Corp.
- Central Iowa Power Cooperative
- Central Maine Power Company
- Central & South West Corporation
(Central Power & Light Company)
- Central Vermont Public Service Corp.
- ** *Chicopee Municipal Lighting Plant
(Chicopee Electric Light Dept.)
- CMS Energy Corp. (Consumers Power Co.)
- Commonwealth Electric Company
- Commonwealth Energy System
- Connecticut Light & Power Company
- Connecticut Municipal Electric Energy Cooperative, Inc.
- Connecticut Yankee Atomic Power Co.
- Consolidated Edison Co. of New York

*This entity is a municipal or state government organization. Ownership of bonds or other financial instruments issued by such an organization is proscribed only when the bonds or other financial instruments are issued specifically for the construction of nuclear power plants.

**Note that this is a new name for an entity previously listed. The former name of this entity is in parentheses.

Corn Belt Power Cooperative
Dairyland Power Cooperative
*Dalton Water & Light Commission, GA
Delmarva Power & Light Company
Detroit Edison Company
Dominion Resources (Virginia Electric & Power Corp.)
Duke Power Company
Duquesne Light Company
Eastern Utilities Associates
El Paso Electric Company
Entergy Corporation (Middle South Utilities, Inc.)
Entergy Operations, Inc.
*Eugene Water & Electric Board, OR
Fitchburg Gas & Electric Light Co.
*Florida Municipal Power Agency
Florida Progress Corporation
(Florida Power Corporation)
FPL Group, Inc.
(Florida Power & Light Company)
*Gainesville-Alachua County Regional Electric, Water,
and Sewer Utilities Board, FL
General Public Utilities Company
Georgia Power Company
**Great Bay Power Corporation (EAU Power Corporation)
Green Mountain Power Corporation
Gulf States Utilities Company
Houston Industries, Inc. (Houston
Lighting & Power Dept.)
*Hudson Light & Power Dept., MA
IE Industries (Iowa Electric Light & Power Co.)
Illinova Corporation
(Illinois Power Company)
Indiana Michigan Power Co.
Interstate Power Company
Jersey Central Power & Light Co.
Kansas City Power & Light Co.
*Kansas Electric Power Cooperative
Kansas Gas & Electric Co.
Kansas Power & Light Co.
*Kissimee Utilities, FL
*Leesburg Municipal Electric Dept., FL
Long Island Lighting Company
*Long Island Power Authority
*Los Angeles Department of Water & Power
Louisiana Power & Light Co.
*Lyndonville Electric Dept., VT
Madison Gas & Electric Co.
Maine Public Service Company
Maine Yankee Atomic Power Co.
Massachusetts Municipal Wholesale Electric Company
Metropolitan Edison Company
**MidAmerican Energy Company (Iowa-Illinois Gas & Electric Co.)
Mississippi Power & Light Co.
Montaup Electric Co.

Municipal Electric Authority of Georgia
Nebraska Public Power District
New England Electric System
New England Gas & Electric Association
New England Power Company
New Hampshire Electric Cooperative, Inc.
*New Smyrna Beach Utilities Commission, FL
*New York Power Authority
New York State Electric & Gas Corp.
Niagara Mohawk Power Corporation
North Atlantic Energy Corporation
North Atlantic Energy Service Company
(subsidiary of Northeast Utilities)
North Atlantic Service Corporation
*North Carolina Electric Membership Corporation
*North Carolina Municipal Power Agency No. 1
*North Carolina Eastern Municipal Power
Agency
Northeast Nuclear Energy Company
Northeast Utilities
Northeast Utilities Service Company
(subsidiary of Northeast Utilities)
Northern States Power Company
*Ocala Utilities Division, FL
Oglethorpe Power Corp.
Ohio Edison Company
Old Dominion Electric Cooperative
Omaha Public Power District
*Orlando Utilities Commission, FL
Pacific Gas & Electric Company
Pacific Power & Light Company
(Pacific Corporation)
**PECO Energy Company
(Philadelphia Electric Company)
Pennsylvania Electric Company
Pennsylvania Power Company
Pennsylvania Power & Light Company
*Piedmont Municipal Power Agency
Pinnacle West Capital Corporation
(AZP Holding Company)
(Arizona Public Service Company)
Portland General Corporation
(Portland General Electric Company)
Public Service Company of Colorado
Public Service Company of New Hampshire
Public Service Company of New Mexico
Public Service Enterprise Group
(Public Service Electric & Gas Company)
Puget Sound Power & Light Company
*Riverside Public Utilities, CA
Rochester Gas & Electric Corporation
*Sacramento Municipal Utility District
Salt River Project Agricultural
Improvement & Power District

Saluda River Electric Cooperative
*San Antonio Public Service Board, TX
San Diego Gas & Electric Company
Scana Corp.
 (South Carolina Electric & Gas Co.)
Seminole Electric Cooperative, Inc.
South Carolina Electric & Gas Co.
South Carolina Public Service Authority
South Mississippi Electric Power
 Association
SCE Corporation
 (Southern California Edison Company)
*Southern California Public Power Authority
Southern Company
Southern Nuclear Operating Company, Inc.
Soyland Power Cooperative, Inc.
System Energy Resources, Inc.
*Tallahassee Electric Dept., FL
*Taunton Municipal Lighting Plant, MA
Tennessee Valley Authority
TU Electric
 (Dallas Power & Light Co.)
 (Texas Electric Service Company)
 (Texas Power & Light Company)
Texas Utilities Electric Company
**Unicom (CeCo Holding Co.; Commonwealth Edison Co.)
Union Electric Company
United Illuminating Company
Unitil Corporation
Vermont Electric Generation &
 Transmission Cooperative, Inc.
Vermont Yankee Nuclear Power Corp.
Washington Public Power Supply System
 (WPPSS)
Washington Water Power Company
Western Massachusetts Electric Co.
WP&L Holdings
 (Wisconsin Power and Light Co.)
Wisconsin Energy Corp.
 (Wisconsin Electric Power Co.)
WPS Resources Corporation
 (Wisconsin Public Service Corporation)
Wolf Creek Nuclear Operating Corporation
Yankee Atomic Electric Company

2. Manufacturers/Vendors of Power or Test Reactors

ABB Atom, Inc. (Combustion Engineering)
ASEA Brown Boveri (Combustion Engineering)
General Electric
McDermott Corp. (Babcock & Wilcox)
Neal Blue, Inc. (Blue Family Group)
(General Atomics Technologies)
Offshore Power Systems
Westinghouse

3. Architectural Engineering Companies

Bechtel
Black & Veatch
Brown Boveri
Burns & Roe
C.F. Braun
Duke Engineering Services
Dravo Corporation (Gibbs & Hill)
Ensearch (Ebasco)
Gilbert Associates/Commonwealth Companies
Halliburton (Brown & Root)
Raytheon Corporation (United Engineers &
Constructors)
Sargeant & Lundy
Southern Services Co.
Stone & Webster

4. Fuel Cycle Applicants and Licensees

ABB Atom, Inc. (Combustion Engineering)
Allied Signal
American Ecology, Inc. (U.S. Ecology)
American Nuclear Corp.
Atlas Corp. (Atlas Minerals)
Cabot Corporation
CEGB America, Inc.
COGEMA USA (Pathfinder Mines Corp.)
Energy Fuels Nuclear, Inc.
Envirocare of Utah
Everest Mineral Corp.
Fansteel, Inc.
Ferrett Exploration Co., Inc.
Fluor Corp.
Foster Wheeler (FW Applications, Inc.)
General Atomics Technologies Corp.
(Sequoyah Fuels Corp.)
General Electric Company
General Nuclear Systems, Inc.
Holtech Corporation
Homestake Mining Co.

Kaiser Aluminum Specialty Products
Kennecott Uranium Corporation
Louisiana Energy Services
Mallinckrodt, Inc.
McDermott (Babcock and Wilcox)
Molycorp, Inc.
Neal Blue Inc. (Blue Family Group)(General Atomics)
(Sequoyah Holding Co.)(Sequoyah Fuels Corp.)
NFS Services, LTD (Nuclear Fuel Services, Inc.)
Nuclear Assurance Corp.
Nuclear Packaging
Packaging Technology
Plateau Resources
Power Resources, Inc.
RIO Algom Corp. (Quivera, RIO Algom Mining Co.)
Scientific Ecology Group, Inc.
Shieldalloy Corporation
Siemens Capital Corp. (U.S. affil. of Kraftwerk Union AG, FRG)
Siemens, West Germany
**Sierra Nuclear Corporation (Pacific Sierra Nuclear Associates)
Total Minerals Corporation
Transnuclear, Inc.
Umetco Minerals Corporation
UNC Resources
UNC Incorporated (United Nuclear Corporation)
US Ecology
United States Enrichment Corporation
Uranerz U.S.A. Inc.
Uranium Resources, Inc. (Hydro Resources, Inc.)
Urenco, Ltd.
US Ecology
Waste Management, Inc. (Chem Nuclear)
Westinghouse

5. Energy or Utility Sector Mutual Funds ***

AAL Utilities Fund
ABT Utility Income Fund, Inc.
America's Utility Fund, Inc.
Benham Utilities Income Fund
Colonial Utilities Fund
Dean Witter Utilities Fund
Dean Witter Variable Investment Services--Utility Series
Flagship Utility Income Fund (Corporate Cash Management Fund)
Franklin Utilities Fund

*** NOTE: This list was based on a recent OGC review of mutual fund prospectuses. Because the assets of a fund change, employees should contact OGC if a fund listed above holds less than 25% of its assets in prohibited securities.

Merrill Lynch Utility Income Fund, Inc.
Paine Webber Utility Income Fund
Prudential Utility Fund, Inc.
Putnam Utilities Growth and Income Fund
Smith Barney Fund, Inc.
Vanguard Utilities Income Portfolio
Van Kampen American Merrit Utility

APPENDIX H
TRAVEL GUIDELINES AND PROCEDURES
FOR SUBMITTING TRIP REPORTS

Guidelines for Domestic Travel for ACRS Members

In view of the expected budget restrictions, the Committee has established certain guidelines for travel to meetings and conferences in the United States. The guidelines are presented below:

- Members may attend any NRC-sponsored meeting, without restriction.
- Requests for travel to other meetings or conferences on subjects of current interest to the ACRS will be authorized on a case-by-case basis, but compensation will normally be limited to 2 days, including travel time.
- Per diem will be paid for all days of attendance and travel to authorized meetings.
- Within a month after the meeting, the member should provide a trip report to the ACRS office containing a description of the matters discussed and his views and observations. It will be distributed to all ACRS members, and to the Commission, the EDO, and NRC Program Office Directors, as appropriate.

October 5, 1995

Guidelines For ACRS Members Attending Meetings and
Conferences In Foreign Countries

In the attached memorandum (Attachment 1), NRC Chairman Jackson states that in light of the recent and possible future budget reductions she plans to carefully review requests for international travel. The implied message is that each office should review the appropriateness of and the necessity for international travel prior to submitting requests for such travel to the Chairman for approval. Additionally, she is looking for a better justification for all foreign travel in terms of relevance to the NRC's mission. The Committee very rarely disapproves requests from individual members for foreign travel. In view of the Chairman's message, coupled with the dwindling budget, the Committee needs to establish certain guidelines with regard to international travel. The guidelines are presented below.

- The total number of international travel trips for the ACRS in a Fiscal Year should not exceed ten. (There may be an exception for this rule if a quadripartite meeting is planned for a particular year.)
- On or before December 31 of each Fiscal Year, individual members should provide a list of all foreign meetings/conferences they are interested in attending during that fiscal year if possible. Under no circumstances should requests for foreign travel be submitted less than 90 days prior to the meeting. They should complete the ACRS/ACNW standard form for foreign travel (Attachments 2 and 3), providing enough information (agenda if available, topics to be discussed, invitation to submit paper, invitation to attend/participate, relevance to ACRS/NRC activities, etc.) along with the list. The Planning and Procedures Subcommittee will prioritize and provide a list of 10 meetings to the full Committee for approval. In establishing priorities, the Planning and Procedures Subcommittee will use a criteria that any particular member generally is to be limited to two foreign trips per fiscal year.
- Those members who receive Committee approval should complete NRC Form 445, Request for Approval of Official Foreign Travel (Attachment 4) and attach a copy of the agenda and a statement of importance to the ACRS/NRC at least 90 days prior to the meeting date. This information will be forwarded to the NRC Chairman for approval.

- Within a month after the meeting, the member should provide a trip report to the ACRS Office, that would contain a description of the matters discussed and his views and observations. It will be distributed to all members, NRC Office Directors, and to the Commissioners.
- Compensation will be limited to a maximum of four days for a particular meeting, including travel. Per diem will not be affected.

Attachments:

1. Memorandum dated August 14, 1995, from Shirley Ann Jackson, Subject: International Travel
2. ACRS Special Travel Endorsement Form, dated 9/9/94
3. ACNW Special Travel Endorsement Form, dated 4/13/94
4. NRC Form 445, Request for Approval of Official Foreign Travel

PROCEDURES FOR HANDLING DOMESTIC
AND FOREIGN TRIP REPORTS

Procedures for submittal and distribution of ACRS/ACNW member's trip reports are as follows:

A. Trip Report Content

The member who attends a meeting/conference should provide a written report to the cognizant Branch Chief, ACRS/ACNW Office, generally no later than 30 days subsequent to attending a meeting/conference. The report should include the following:

- Brief description of matters discussed
- Relevance to the ACRS/ACNW activities
- Observations/comments

B. Classification

A trip report shall be classified on the basis of its content. If the report includes sensitive information, it shall be marked "Official Use Only." If the report contains information obtained from a foreign source in confidence, it shall be marked "Proprietary Information." If no sensitive or proprietary information is included, the report shall be unclassified and sent to the NRC Public Document Room. The author of the report should inform the cognizant Branch Chief, ACRS/ACNW Office, whether the report contains any sensitive or proprietary information.

C. Distribution

- All trip reports received by the ACRS/ACNW Office should be logged in through the mailroom (Mr. Theron Brown). Mr. Brown provides copies to Ms. Kelton for coding, scanning, sending a copy to the PDR, and providing a copy to the ACRS/ACNW Executive Director's secretary (Carol Ann Rowe) to be filed in the author's file.
- If the report is for a domestic trip, the ACRS/ACNW engineers/scientists should draft a transmittal memorandum to be issued by the cognizant Branch Chief to the ACRS/ACNW members with copies to the Office of the Executive Director for Operations (EDO), and Program Office Directors, as appropriate.
- If the report is for a foreign trip, the ACRS/ACNW engineers/scientists should draft a transmittal memorandum to be issued by the ACRS/ACNW Executive

Director to the ACRS/ACNW members, the NRC Chairman and Commissioners, Office of the Executive Director for Operations, Office of International Programs, Office of Administration, Division of Security, Committee to Review Generic Requirements, and NRC Program Offices, as appropriate.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

October 7, 1995

MEMORANDUM TO: Chairman Jackson
Commissioner Rogers

FROM: John T. Larkins *John T. Larkins*
Executive Director, ACRS/ACNW

SUBJECT: TRANSMITTAL OF FOREIGN TRIP REPORT OF ACRS
MEMBER

Attached is a trip report by ACRS Member Dana A. Powers on the High Burnup Fuel Specialists Meeting held in Cadarache, France, on September 12-14, 1995. This Trip Report also includes the Program for the meeting and a list of participants.

Attachment: Trip Report by Dana A. Powers dated September 1995, "Travel to Participate in the High Burnup Fuel Specialists Meeting," Cadarache, France, September 12-14, 1995

cc: ACRS Members
J. M. Taylor, EDO
W. T. Russell, NRR
C. J. Paperiello, NMSS
D. L. Morrison, RES
E. L. Jordan, AEOD
J. Conran, CRGR
C. R. Stoiber, OIP



SAMPLE - DOMESTIC TRAVEL
Gen. Trip

UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

October 6, 1995

MEMORANDUM TO: ACRS Members

FROM: Sam Duraiswamy, Chief
Nuclear Reactors Branch

SUBJECT: TRIP REPORT ON ANS INTERNATIONAL TOPICAL
MEETING ON OPERATING REACTOR SAFETY,
SEPTEMBER 17-20, 1995, BY ACRS MEMBER FONTANA

Attached is Dr. M. H. Fontana's trip report to the ANS International Topical Meeting on Operating Reactor Safety held in Seattle, Washington, on September 17-20, 1995. This trip report includes the Table of Contents of the Proceedings.

Attachment: Trip Report dated September 29, 1995, from M. H. Fontana, ACRS Member, Subject: Trip Report on ANS International Topical Meeting on Operating Reactor Safety, September 17-20, 1995, Seattle, Washington

cc: L. Soffer, OEDO
D. Morrison, RES
W. Russell, NRR
E. L. Jordan, AEOD
C. R. Stoiber, OIP
ACRS Staff

**APPENDIX I
PROCEDURES FOR MONITORING, CONTACTING,
AND ARRANGING NUCLEAR FACILITY VISITS**

PROCEDURES FOR MONITORING, CONTACTING, AND
ARRANGING NUCLEAR PLANT VISITS BY ACRS MEMBERS

I. GENERAL

All ACRS Members are encouraged to bring to the Committee's attention, at any time, information of interest or concern that pertains to the operation of U.S. commercial nuclear power plants.

II. MONITORING OF PLANT ACTIVITIES BY MEMBERS

Members may choose one or more plants of interest to them for the purpose of monitoring their operations, which may include visiting the plants occasionally and following up on significant activities associated with these plants. Notification regarding such interest should be made to the Cognizant ACRS Staff Engineer for the Nuclear Power Plant Activities Subcommittee, or to the Chief, Nuclear Reactors Branch and the Cognizant Staff Engineer assigned to the plant(s) of interest. The Planning and Procedures Subcommittee will also be notified.

III. PROCEDURES FOR ARRANGING A VISIT TO A PLANT

- A. An ACRS Member wanting to visit a nuclear power plant should contact the ACRS Staff Engineer who is assigned to the respective plant.
- B. The request should be made sufficiently in advance of the proposed visit to enable the licensee to make adequate arrangements and to accommodate the visit at a time which would not unnecessarily interfere with major plant activities, (e.g., refuelling, maintenance outage, etc.). A lead time of ~ 4-6 weeks is suggested. When a licensee or the Cognizant NRC Regional Office needs to be contacted, the EDO's Office should also be notified. The Deputy Executive Director will be the contact for notifying the EDO's Office.
- C. When contacting the licensee with a request for a plant visit, the following information should be discussed: proposed and alternate visit dates, items of current interest, and specific areas of the plant to be toured. The Cognizant Staff Engineer should ensure that the licensee is thoroughly familiar with the purpose and scope of this visit, as well as the general operational aspects of the ACRS. (Note: see Item B.3.c., below).
- D. Plant visits are considered "fact finding" activities of the Committee and, as such, these visits are not subject to requirements of the FACA. Subsequent to such a visit, and based on the results of the fact-finding tour, the

Cognizant Staff Engineer should determine if a subcommittee meeting will be needed to discuss or resolve any issues identified during the visit.

IV. MEMBER CONTACT WITH REPRESENTATIVES OF A SPECIFIC PLANT

Should a Member wish to contact representatives of a specific plant to discuss matters pertaining to his oversight duties, he should inform either the Cognizant ACRS Staff Engineer for the particular plant in question or the Nuclear Power Plant Activities Staff Engineer prior to doing so. Said ACRS Staff Engineer will ensure that notification of the intended contact is given to the appropriate NRC staff representatives.

V. PLANT INFORMATION DATA RESOURCES

Data resources concerning the specifics of individual plant designs and their operating status can be obtained from the staff of the ACRS/NRC. These data resources include both written material and a set of programs (accessible in an electronic format) detailing the status of plant operations (e.g., plant status report, daily event report, etc. - see attached memorandum).

Some suggested resources include:

1. FSAR/SER for plant
2. PRA (including IPE/IPEEE)
3. NRC "One Book" (Copies are available in our offices)
4. Current licensing issues (obtained from NRR Project Manager by Cognizant ACRS Staff Engineer).
5. Plant-specific information (obtained from the NRC Incident Response Branch).

Should a Member desire to obtain details pertaining to the design or operation of a specific plant, such information can be requested directly from the licensee through the Cognizant ACRS Staff Engineer.

NUCLEAR SITE OR FACILITY VISITS BY ACNW MEMBERS

It will be normal Committee practice for members of the assigned Working Group to visit the proposed disposal site or facility before Committee action on licensing-related reviews. A recommendation not to visit the site or the facility will be the prerogative of the Working Group. Such a decision should be made with adequate notice so that a site visit can be made by a designated group of Members if the full Committee considers it desirable.

APPENDIX J
INSTRUCTIONS FOR USE OF GOVERNMENT BANKCARD

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I. PURPOSE OF PROCEDURES

To provide participants in the Nuclear Regulatory Commission's (NRC) Government BankCard Program with instructions for the proper use of the BankCard as an alternative method for small purchase orders \$2,500¹ and under.

II. DEFINITIONS

A. General Services Administration

The GSA's Federal Supply Service (FSS) has awarded a single award schedule contract (Federal Supply Schedule, Industrial Group 651, IG Class 8750) for Government-Wide Commercial Credit Card Service.

B. Contractor Bank

All references to the **contractor bank** are intended to mean the commercial banking institution that the GSA has selected as the contractor to administer the BankCard services for all of the Federal Government. The GSA has awarded an FSS contract for Government-Wide Commercial BankCard services to Rocky Mountain BankCard System (RMBCS), a subsidiary of Colorado National Bank. Under the contract, the RMBCS provides participating Federal agencies with its VISA International Merchant Purchase Authorization Card (I.M.P.A.C.).

C. BankCard

All references herein to **BankCard** refer to the commercial BankCard issued by the contractor bank.

D. Cardholder

The cardholder must be an NRC employee to whom a BankCard is issued. The BankCard bears this person's name and can only be used by the named individual for the purpose of making authorized U.S. Government purchases.

E. Delegation of Authority

A written "Delegation of Authority" will be issued by the Director, Division of Contracts, to the designated individual to appoint that individual as an authorized cardholder and to establish a single purchase limit up to \$2,500.

¹Procurement personnel in the Division of Contracts and the Regional Offices, with warrants, are authorized to make purchases up to the single purchase limitation of \$25,000.

F. Approving Official

The approving official is responsible for the review and approval of purchases made by assigned cardholders at the end of each billing cycle and must be a current, NRC employee. A cardholder cannot be his/her own approving official. An individual may not be an approving official for his/her supervisor.

G. Allowance Holder

Office Directors, Regional Administrators or other management officials delegated authority by the Director, Division of Budget and Analysis, Office of the Controller (OC), are allocated funds for use in implementing their program and administrative responsibilities. Such an official is referred to as an allowance holder. Regional Administrators and the Directors of the following offices are designated as allowance holders: NRR, NMSS, RES, AEOD, IRM, ADM, OP, and OIG. In addition, the Chief, Budget Planning, Analysis, and Operations Branch, Division of Budget and Analysis, is the allowance holder for OC.

H. Statements of Account

RMBCS will provide three statements at the end of NRC's billing cycle. The first statement is mailed to the cardholder. This is called a "Statement of Account" and delineates a listing of all items processed in the previous 30 days. The second statement is an approving official account summary which is mailed to the approving official and lists purchases made by each cardholder for whom he/she is responsible. The third statement is the official invoice sent to Division of Accounting and Finance, Office of the Controller (DAF/OC) summarizing purchases for all approving officials and cardholders assigned to each office.

I. Spending Limits

1. Single Purchase Limit: The maximum amount which a cardholder may spend in a single transaction. This limit is established by the allowance holder (or designee). The single purchase may consist of a number of items handled as one transaction, but cannot exceed the authorized single purchase limit, including freight and other costs. The single purchase limit for each cardholder is specified in the "Delegation of Authority" letter.

2. Thirty-Day Cardholder Limit: A 30-day spending limit is imposed on each cardholder's cumulative purchases in a given month. The 30-day dollar limit for each cardholder is established by each allowance holder (or designee) based on budget considerations. The 30-day limit is established at the time the cardholder account is set up and will be commensurate with their estimated usage.

3. Thirty-day Approving Official Limit: The combined authorized 30-day limit for all cardholders equals the 30-day limit for a given approving official. This limit will vary depending upon the number of cardholders assigned to an approving official.

J. Funds Certifying Official

Individual delegated authority to certify the availability of funds allocated to an NRC allowance holder. Certifying the availability of funds is the act of committing funds.

III. NRC RESPONSIBILITIES FOR BANKCARD PROGRAM

A. Office Directors and Regional Administrators

Determine and recommend individuals to serve as cardholders and approving officials from their organizations.

B. Director, Office of Administration

Serves as the senior Agency official for administration of the BankCard Program. Exercises oversight to assure that card assignments are appropriate and that cards are utilized in a prudent manner.

C. Director, Division of Accounting & Finance (DAF), Office of the Controller (OC)

Makes payment to the RMBCS within 30 calendar days of receipt of the statement in accordance with the provisions of the Prompt Payment Act, Public Law 97-177.

D. Director, Division of Contracts

1. Provides overall program direction and management of the BankCard program.
2. Issues "Delegation of Authority" letter (Attachment 1) to individuals named by Office Directors and Regional Administrators as cardholders.
3. Issues "Designation of Approving Official" letter (Attachment 2) to individuals named by Office Directors and Regional Administrators as approving officials.

E. Agency Program Coordinator (BankCard)

Coordinates all the day-to-day BankCard activities, including training and resolution of issues. Serves as the principal liaison with the GSA commercial credit card contractor.

IV. NRC PROGRAM PROCEDURES

A. Obtaining a BankCard

To obtain a BankCard, NRC Office Directors and Regional Administrators submit a request to the Director, ADM, identifying: (1) prospective cardholders, and approving officials and (2) each cardholder's single purchase limit and 30-day limit. The cardholder is an NRC employee to whom a credit card will be issued, and the approving official is the individual designated to verify and approve credit card purchases. Cardholders and approving officials must complete the Agency's "NRC Procedures for Use of the U.S. Government BankCard" training course. The APC will schedule training for prospective cardholders and approving official after receipt of the above request.

Upon completion of the required training, the Director, DC, will sign a "Delegation of Authority" memorandum to the prospective cardholder stating the cardholder's single purchase and 30-day limits. The Director, DC, will also issue a memorandum with the appropriate guidance to the cardholders' approving official as designated by the Office Director. The APC will make arrangements to provide the delegation and BankCard directly to the individual recipient.

B. Limitations on Purchases Using the BankCard

The BankCard was specially designed showing the great seal of the U.S. and the words "United States of America" imprinted on it to avoid being mistaken for a personal credit card. It is strictly for U.S. Government purchases. The BankCard will not be used for personal items or for identification for personal transactions even if reimbursement is intended.

The U.S. Government BankCard Program was developed to be as nonrestrictive as possible. Cardholders may use the BankCard for any purchase up to \$2,500 that would be authorized through normal small purchase procedures. However, regulations dictate that certain restrictions be imposed. The following items/services may not be purchased using a BankCard unless otherwise indicated:

1. janitorial, yard, or maintenance services (maintenance services are not to be confused with repair services for which the credit card may be used);
2. cash advances;
3. rental or lease of land, buildings, and motor vehicles;
4. purchase of telecommunications (telephone) services;
5. personal expense items such as transportation costs, meals, lodging expenses, telephone calls (except in emergency situations);
6. items \$300.00 and over that are available from a GSA mandatory source (list to be provided as part of training and includes items such as furniture, copying/printing equipment, televisions/videos, and office machines);
7. items for which delivery will exceed 30 days;
8. recruitment advertising, space for recruiting events and training except by **Office of Personnel cardholders only**;
9. tickets for unscheduled airline, bus, boat, or train travel except when no scheduled transportation is available, if funds specifically committed for travel are used;
10. repair services covered by an existing maintenance agreement;
11. items which the agency store or supply room normally stocks unless such items are out of stock or are not accessible to cardholder due to travel status or work site; and
12. FIP products except in accordance with the supplementary guidelines issued by IRM (**Attachment 3**).

C. Tax Exemption

The U.S. Government BankCard is embossed with the words "U.S. GOVERNMENT TAX EXEMPT." It is imperative that the cardholder remind the merchant before the purchase is made that the purchases are tax exempt. Cardholders will be provided a tax exemption certificate for use when making purchases with the BankCard.

D. Commitment of Funds Before Using BankCard

Each cardholder is responsible for ensuring that adequate funds have been committed prior to making each purchase. Making a purchase using the BankCard results in obligating NRC's funds. Prior to each purchase, the cardholder must assure that adequate committed funds are available for the purpose of the purchase. Other purchase restrictions are contained in Sections E and F.

A "blanket" commitment of funds may be made by a funds certifying official (FCO) for a category of purchases which will fall under a unique combination of the following accounting classifications: Budget Fiscal Year (BFY), Budget and Reporting Number (B&R), Job Code, and Budget Object Classification (BOC). The FCO makes such a commitment by certifying funds availability on NRC Form 30, "Request For Administrative Services" or an equivalent document. The cardholder is responsible for maintaining a log of purchase transactions made against the blanket commitment and a balance of committed funds which have not yet been used for purchases. The cardholder may not make purchases in excess of amounts certified as available. If a purchase is to be made which falls within the guidelines for permissible BankCard purchases but which will require different accounting classifications than those used on any blanket commitments, the cardholder must obtain a separate certification of funds under the proposed accounting classifications. For example, if funds have been committed only for the purchase of office supplies under BOC 2610, "Office and Stationery Supplies," the cardholder would have to obtain a new certification of funds from the FCO before making a purchase for furniture which is chargeable to BOC 3121, "Furniture and Fixtures -Non-Capitalized."

E. Making Over-the-Counter Purchases

1. Determine that the purchase is permissible and the price is fair and reasonable (e.g., current catalog or price lists, advertisements, or any other reasonable basis). Ask for Government discount prices that may be available. Inform the vendor that the purchase is tax exempt.
2. Provide the vendor with the ship-to address (for warehouse delivery see Section F, "Telephone Ordering Procedures," Item No. 2).
3. Verify that the dollar amount on the sales receipt is correct and that no sales tax has been included before signing and dating it.

4. Retain a copy of the charge slips and/or record the purchase on the "NRC BankCard Log," see Section G.

F. Telephone Ordering Procedures

1. Determine that the purchase is permissible and the price is fair and reasonable. Ask for Government discount prices that may be available. Ensure that shipping cost, if applicable, are included in the price. Inform the vendor that the purchase is tax exempt.
2. If warehouse delivery is required, instruct the vendor to mark the shipping label/packing slip as follows:
 - **NRC BANKCARD (CARDHOLDER'S LAST NAME/
ROOM AND BUILDING NUMBER)**
5000 Boiling Brook Parkway
Rockville, MD 20852
(Regions will provide their own delivery address)Inform the vendor that the warehouse receiving hours are Monday - Friday, 7:15 AM to 3:45 PM.
3. Provide the vendor with the your name, telephone number, and BankCard number.
4. Instruct the vendor to send the customer copy of the sales draft to your NRC office address.
5. Confirm that the vendor agrees to reflect appropriate BankCard account information on the shipping/receiving report when shipment is made so that receipt of the supplies may reconciled against the monthly "Statement of Account."
6. Record the purchase in the "NRC BankCard Log."

G. Maintaining the "NRC BankCard Log"

Cardholders should prepare the "NRC BankCard Log" (Attachment 4) or similar record of purchase for reconciliation against the "Statement of Account" at the end of the billing cycle. The cardholder shall:

1. Record all purchases for the billing period from start to finish.
2. Complete all the columns of the Log for each individual BankCard transaction. Note: "Office Supplies" is an incomplete description; some detail of items purchased is required.

3. Sign and date the log and submit the **original** to the approving official for his/her review and approval at the end of the billing cycle.
4. The cardholder will retain a **copy** of the "NRC BankCard Log" for reconciliation with the cardholder's "Statement of Account."

H. Payment Features

The billing cycle assigned by the GSA commercial credit card contractor to NRC runs from the 14th of the month through the 13th of the following month. Within five (5) working days of the end of the billing cycle, the contractor will send "Statements of Account" to (i) the cardholder, (ii) the approving official, and (iii) the Director, DAF/OC.

The DAF/OC will pay the bill after verifying the charges against each cardholder's "Statement of Account," which the approving official forwards to DAF/OC at the end of the monthly billing cycle. At the time the obligation is processed, the corresponding BankCard commitment is reduced by the same amount in NRC's accounting system.

The cardholder makes no direct payment to the bank. All NRC bills are consolidated into a single invoice by the contractor bank and sent for payment to the NRC's DAF/OC. Cardholders must certify on their individual "Statements of Account" that the item(s) ordered have been received and the charges are correct for payment, or show the charge as a disputed item.

BankCards and "Statements of Account" are mailed to the cardholder's NRC office. The contractor bank will have no record of the cardholder's home address, personal credit history, or social security number.

The BankCard may be used for official U.S. Government purchases overseas. However, the cardholder should first verify with the vendor if additional fees will be charged. If additional fees are charged, the card should not be used.

I. The Statement of Account

Upon Receipt of the "Statement of Account," the CARDHOLDERS shall:

1. Review the "Statement of Account" for accuracy. Reconcile the "Statement of Account" against the "NRC BankCard Log" for the appropriate month. No entries are needed for the administrative fee block.
2. Fill in the appropriate commitment document number-BFY-Job Code-BOC in the accounting code block. If the codes are the

same for every purchase on the statement, you may fill in the first entry and write "same" in the subsequent accounting code blocks.

3. Attach the customer copy of the charge slip (unless a telephone order was made) to the "Statement of Account."
4. Sign and forward, the original "Statement of Account" and "NRC BankCard Log" receipts, and any other necessary documentation ("I.M.P.A.C. Program Cardholder Statement of Questioned Item" form, credit vouchers) to the approving official within five (5) working days of receipt from the contractor bank.
5. Other Responsibilities

- a. Item(s) Not on Statement

Retain the customer copy of the BankCard charge slip and the vendor invoice until it appears on the "Statement of Account."

- b. Lost Charge Slip

If the customer copy of the BankCard charge slip is not available to send with the statement, mark the word "Lost" in the space marked "Date of Purchase" and attach an explanation.

- c. Absence of Cardholder

If a cardholder will not be available to sign the "Statement of Account" because of leave or travel, s/he must forward the "NRC BankCard Log" and all copies of the sales drafts to the approving official. Once the "Statement of Account" is approved, the approving official will send a copy of the cardholder statement plus the attachments to DAF/OC.

Upon Receipt of Statement of Account from Cardholder, the APPROVING OFFICIAL shall:

1. Review and certify the cardholder's "Statement of Account" against the approving official's composite statement received directly from the GSA commercial credit card contractor to ensure that the statement is proper for payment, including certification that all purchases were made in accordance with these procedures.
2. Sign and date the "Statement of Account." If serving in an acting capacity, please state this, and show the name of the approving official of record.

3. Forward each cardholder's "Statement of Account," customer copy of receipts, and "Cardholder Statement of Questioned Item" form or credit voucher to DAF/OC **within ten (10) working days after receipt of the statements from the GSA commercial credit card contractor.**
4. Send all cardholders' documentation on time. If one or two cardholders are delayed in forwarding their "Statements of Account" for approving official verification, do not wait for the delayed statements.
5. Retain the approving official composite statement and the cardholder's "NRC BankCard Log" for three (3) years after the approval of the billing.

J. Changing Account Information

1. Change in Name, Address, or Spending Limit: To change account information (e.g., increase or decrease spending limits, change names or addresses), the approving official can request the change in writing to the APC. A copy of the transmittal memorandum signed by the allowance holder (or designee) must be sent to the Director, ADM, when an increase or decrease in the spending limit is involved. Emergency requests to the GSA commercial credit card contractor from the APC to raise the limit on a temporary basis can be handled by telephone or electronic mail.
2. Departure or Transfer of BankCard Holders: If a cardholder or approving official leaves the Agency, or is transferred to a position of different responsibilities, that individual must send his/her change in writing to the Director, DC, or designee with the cardholder's BankCard cut in half. The Director, DC, or designee will cancel the cardholder's delegation of authority or approving official's designation, note any destroyed card and forward the account maintenance form to the GSA commercial credit card contractor.

K. Safeguarding BankCards

When not being used, BankCards should be safeguarded as would personal cash or a personal credit card. It is the responsibility of the cardholder to assure that the Bankcard is not accessible to others for use. When not being carried for use, the Bankcard may be inconspicuously stored in a locked pedestal or standing file cabinet if a GSA-approved security container or cabinet with a locking bar and combination lock is not readily available. If a filing cabinet is used, appropriate precautions regarding the availability of keys should be taken and the security of the Bankcard routinely checked.

If any BankCard is lost or stolen, immediately notify the contractor bank, approving official, and the APC. This notification will exempt the cardholder from any personal liability as a result of unauthorized use of the BankCard. The GSA commercial credit card contractor may be reached 24 hours a day, 7 days a week, at:

Inside the Continental U.S.: 1-800-227-6736

Outside the Continental U.S.: 303-620-7328

Provide the following to your approving official and APC:

1. cardholder's complete name;
2. card number;
3. date and location of loss;
4. if stolen, date reported to police;
5. date and time contractor was notified;
6. any purchase(s) made on the day card was lost or stolen;
7. new card mailed within two (2) working days after reported loss or stolen.

Any lost or stolen BankCard should also be reported to the DSEC/ADM.

L. Use of the Bankcard Resulting in Fraud, Waste, or Abuse

If an individual knowingly uses the credit card for unauthorized purposes, such action may be considered an attempt to commit fraud against the U.S. Government and may result in immediate cancellation of the card and disciplinary action against the cardholder. The cardholder may be personally liable to the Government for the amount of the unauthorized purchases and may be subject to a fine of not more than \$10,000 or imprisonment for not more than five (5) years, or both, under 18 U.S.C. 287.

M. Agency Contact for Guidance on Credit Card Use and Administration

Questions regarding use and administration of the credit card should be directed to the designated APC, Vicki Gladhill at 415-6519.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

Attachment 1

MEMORANDUM TO: (Cardholder's Name)
(Cardholder's Office)

FROM: Edward L. Halman, Director
Division of Contracts
Office of Administration

SUBJECT: DELEGATION OF AUTHORITY FOR USE OF THE U.S.
GOVERNMENT BANKCARD

Pursuant to the authority granted me in Management Directive 9.21, dated May 26, 1993, (formerly Manual Chapter 0133), you are delegated authority to make purchases with the use of a credit card issued through a GSA-administered contract with Rocky Mountain BankCard System, or its successor. You will be issued a BankCard with your name and account number embossed on it.

This delegation is effective upon receipt of your personal BankCard. Your use of this card will be subject to periodic review to ensure compliance with applicable laws and regulations referenced in "The NRC Procedures for Use of the U.S. Government BankCard" provided to you during the required training course for cardholders.

An approving official will be named to be responsible for the review and approval of all purchases made by you under this delegation. This review will be accomplished on a monthly basis and will cover purchases already made by you. Identified below are your dollar limits for single purchases and for total purchases over a 30-day period, as determined by your office or region.

Your single purchase may not exceed:	Your 30-day purchasing limit is:	Your approving official is:

When you receive your credit card, you must follow the instructions sent with your card. Please acknowledge receipt by telephoning Rocky Mountain BankCard System at 1-800-227-6736. This will activate your account.

This delegation will terminate upon your separation from the agency or upon reassignment to another office within the NRC. Before you leave your current position, you must submit a "I.M.P.A.C. Procurement Program Cardholder Account Maintenance" form, with your credit card, to the Agency Program Coordinator, Ms. Vicki Gladhill, Mail Stop T-7I2, in order to cancel your account.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

Attachment 2

MEMORANDUM TO: (Approving Official's Name and Title)
(Approving Official's Branch and Division)
(Approving Official's Office or Region)

FROM: Edward L. Halman, Director
Division of Contracts
Office of Administration

SUBJECT: DESIGNATION OF APPROVING OFFICIAL

You are hereby designated as the approving official for the employees listed below who are being issued a U.S. Government BankCard. This designation is to be used in accordance with "The NRC Procedures for Use of the U.S. Government BankCard" issued to you during the required training course for prospective approving officials.

As an approving official, you must review each cardholder's "Statement of Account" at the end of the billing cycle to verify that all expenditures were for official reasons and have your approval. Please ensure that the cardholder has included the correct commitment document numbers, i.e., Budget Fiscal Year (BFY), Budget and Reporting Number (B&R), Job Code and Budget Object Classification (BOC) in the accounting code block on the Statement of Account. Sign, date and forward the "Statement of Account" with any necessary attachments to the Division of Accounting and Finance, Office of the Controller, within ten (10) working days of its receipt by the cardholder from Rocky Mountain BankCard System. Retain the original "NRC BankCard Log" for your records.

Your 30-day limit, a list of current cardholders and their related 30-day limits, and the alternate approving official, if named, are listed below. If you have a question on this program that is not answered in "The NRC Procedures for Use of the U.S. Government BankCard," you should contact Ms. Vicki Gladhill, Agency Program Coordinator, on (301) 415-6519 or me on (301) 415-7305.

Approving Official 30-day limit	Cardholder/30-day limit	Alternate Approving Official

cc: P. J. Rabideau
Allotment Financial Manager
Alternate Approving Official

Guidelines and Procedures for Acquisition of FIP Resources Using Bankcards

The following restrictions apply to the use of Bankcards by Headquarters Offices (other than IRM)¹ for the acquisition of Federal Information Processing (FIP) resources:

- 1) FIP support services that duplicate services provided by IRM may not be acquired. Support services provided by IRM that may not be duplicated through Office Bankcard purchases include applications system software development and maintenance, hardware installation and maintenance, and network and telecommunications services.
- 2) Network-related equipment and software may not be acquired. This means network hardware including network interface cards, workstation operating system software (such as DOS and Windows) and any software that must be installed on a LAN server (including network versions of applications software, network operating system and communications software) may not be acquired.
- 3) FIP acquisitions will be limited to \$2,500 per purchase.
- 4) Any hardware acquired at a cost of more than \$100 must be purchased for installation within existing equipment.

Acquisition of minor peripherals such as mice and trackballs (which generally cost less than \$100) and components such as video boards, memory, hard disks, and CD-ROM drives to be installed in existing equipment would be permitted (even if they cost more than \$100).

The acquisition of computer systems and significant external peripherals such as monitors, printers, scanners, would not be permitted. IRM will acquire computer systems and significant external peripherals using contracts, purchase orders, and Bankcard purchases as appropriate.

IRM and Office roles and responsibilities when using Bankcards for the acquisition of FIP resources:

- 1) Offices will be responsible for assessing the need for equipment and software purchased through the Bankcard program and for controlling its location and use.

Upon initiation of the Bankcard program IRM will provide Headquarters Offices with a listing of their current software inventory. Offices will be responsible for maintaining information on what software they have as necessary for their operations and planning purposes. IRM will not require that Offices continue IRM's current practice of assigning a unique control number to each software package.

- 2) All FIP Office Bankcard purchases must be approved by the Office's SIRMO or Alternate SIRMO.

¹Regional Offices may exceed these restrictions; however, for acquisitions that exceed these restrictions the Office must submit a requisition to IRM for approval before making the bankcard purchase (as is done currently for Regional Office FIP purchase).

APPENDIX K
10 CFR PART 9

§ 8.5 Interpretation by the General Counsel of § 73.55 of this chapter; illumination and physical search requirements.

(a) A request has been received to interpret 10 CFR 73.55(c)(5) and 73.55(d)(1). 10 CFR 73.55(c)(5) provides:

Isolation zones and all exterior areas within the protected area shall be provided with illumination sufficient for the monitoring and observation requirements of paragraphs (c)(3), (c)(4), and (h)(4) of this section, but not less than 0.2 footcandle measure horizontally at ground level.

(b) The requester contends that the regulation is satisfied if 0.2 footcandle is provided only at the protected area boundary and the isolation zone. The language of the regulation is clearly to the contrary. It requires not less than 0.2 footcandle for "all exterior areas within the protected area." This regulation helps effectuate the monitoring and observation requirements of 10 CFR 73.55. For example, 10 CFR 73.55(c)(4) states that "All exterior areas within the protected area shall be periodically checked to detect the presence of unauthorized persons, vehicles, or materials." In the absence of illumination, such checking could not be fully effective.

(c) The requester also asks whether the illumination requirement extends to the tops and sides of buildings within the protected area. To effectuate the monitoring and observation requirements cited above, illumination must be maintained for the tops and sides of all accessible structures within the protected area. This interpretation is consistent with that given by the Commission's staff to affected licensees and applicants at a series of regional meetings held in March of 1977 and will be reflected in forthcoming revisions to NUREG 0220, Draft Interim Acceptance Criteria for a Physical Security Plan for Nuclear Power Plants (March 1977).

(d) 10 CFR 73.55(d)(1) provides in pertinent part: The search function for detection of firearms, explosives, and incendiary devices shall be conducted either by a physical search or by use of equipment capable of detecting such devices.

(e) The requester contends that until "equipment capable of detecting such devices" is in place, a licensee need not

comply with the search requirement, but can utilize instead previous security programs. This contention is based on the first sentence of 10 CFR 73.55 which provides in pertinent part that the requirements of paragraph (d) of that section shall be met by May 25, 1977, "except for any requirement involving construction and installation of equipment not already in place expressed in (paragraph)(d)(1) * * *". Under this sentence only those requirements of paragraph (d) which involve "construction and installation of equipment" do not take effect on May 25, 1977. Because a "physical search" does not require "construction and installation of equipment", implementation of such searches is required on May 25, 1977. The regulation provides alternative: "the search function * * * shall be conducted either by a physical search or by use of equipment * * *". Thus when appropriate equipment is in place, the search function need not involve a physical search.

(f) The paragraphs above set forth interpretation of regulations; they do not apply those regulations to particular factual settings. For example, no effort is made to state what lighting system might be used for a given facility; all that is stated is that a system must provide not less than 0.2 footcandle for all exterior areas within the protected area. Similarly, no effort is made to define what is an adequate "physical search"; all that is stated is that, in the absence of appropriate equipment, such searches must begin on May 25, 1977.

[42 FR 33265, June 30, 1977]

PART 9--PUBLIC RECORDS

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AUTHORITY: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Subpart A also issued under 5 U.S.C. 552; 31 U.S.C. 9701; Pub. L. 90-570.

Subpart B is also issued under 5 U.S.C. 552a.

Subpart C also issued under 5 U.S.C. 552b.

§ 9.1 Scope and purpose.

(a) Subpart A implements the provisions of the Freedom of Information Act, 5 U.S.C. 552, concerning the availability to the public of Nuclear Regulatory Commission records for inspection and copying.

(b) Subpart B implements the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, concerning disclosure and availability of certain Nuclear Regulatory Commission records maintained on individuals.

(c) Subpart C implements the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, concerning the

opening of Commission meetings to public observation.

(d) Subpart D describes procedures governing the production of agency records, information, or testimony in response to subpoenas or demands of courts or other judicial or quasi-judicial authorities in State and Federal proceedings.

[52 FR 49355, Dec. 31, 1987]

§9.3 Definitions.

As used in this part:

Commission means the Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974.

Government agency means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

NRC means the Nuclear Regulatory Commission, established by the Energy Reorganization Act of 1974.

NRC personnel means employees, consultants, and members of advisory boards, committees, and panels of the NRC; members of boards designated by the Commission to preside at adjudicatory proceedings; and officers or employees of Government agencies, including military personnel, assigned to duty at the NRC.

Working days mean Monday through Friday, except legal holidays.

[52 FR 49355, Dec. 31, 1987]

§9.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized as binding upon the Commission.

[52 FR 49356, Dec. 31, 1987]

§9.8 Information collection requirements: OMB approval.

(a) The NRC has submitted the information collection requirements contained in this part to the Office of Man-

agement and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number 3150-0043.

(b) The approved information collection requirements contained in this part appear in §§ 9.29, 9.41, 9.54, 9.55, and 9.202.

[52 FR 49356, Dec. 31, 1987]

Subpart A—Freedom of Information Act Regulations

SOURCE: 52 FR 49356, Dec. 31, 1987, unless otherwise noted.

§9.11 Scope of subpart.

This subpart prescribes procedures for making NRC agency records available to the public for inspection and copying pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) and provides notice of procedures for obtaining NRC records otherwise publicly available. This subpart does not affect the dissemination or distribution of NRC-originated, or NRC contractor-originated, information to the public under any other NRC public, technical, or other information program or policy.

§9.13 Definitions.

As used in this subpart:

Agency record is a record in the possession and control of the NRC that is associated with Government business. Agency record does not include records such as—

(1) Publicly available books, periodicals, or other publications that are owned or copyrighted by non-Federal sources;

(2) Records solely in the possession and control of NRC contractors;

(3) Personal records in possession of NRC personnel that have not been circulated, were not required to be created or retained by the NRC, and can be retained or discarded at the author's sole discretion, or records of a personal nature that are not associated with any Government business; or

(4) Non-substantive information in logs or schedule books of the Chairman

or Commissioners, uncirculated except for typing or recording purposes.

Commercial-use request means a request made under §9.23(b) for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

Direct costs mean the expenditures that an agency incurs in searching for and duplicating agency records. For a commercial-use request, direct costs include the expenditures involved in reviewing records to respond to the request. Direct costs include the salary of the employee category performing the work based on that basic rate of pay plus 18 percent of that rate to cover fringe benefits and the cost of operating duplicating machinery.

Duplication means the process of making a copy of a record necessary to respond to a request made under §9.23. Copies may take the form of paper copy, microform, audic-visual materials, disk, magnetic tape, or machine readable documentation, among others.

Educational institution means an institution which operates a program or programs of scholarly research. Educational institution refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education.

Noncommercial scientific institution means an institution that is not operated on a commercial basis, as the term "commercial" is referred to in the definition of "commercial-use request," and is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

Office, unless otherwise indicated, means all offices, boards, panels, and advisory committees of the NRC.

Record means any book, paper, map, photograph, brochure, punch card, magnetic tape, paper tape, sound recording, pamphlet, slide, motion picture, or other documentary material regardless of form or characteristics. Record does not include an object or article such as a structure, furniture, a

tangible exhibit or model, a vehicle, or piece of equipment.

Representative of the news media means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscriptions by the general public.

Review means the process of examining records identified as responsive to a commercial-use request to determine whether they are exempted from disclosure in whole or in part. Also, review includes examining records to determine which Freedom of Information Act exemptions are applicable, identifying records or portions thereof to be disclosed, and excising from the records those portions which are to be withheld.

Search means all time spent looking for records, either by manual search or search using existing computer programs, that respond to a request including a page-by-page or line-by-line identification of responsive information within the records.

Unusual circumstances mean—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the NRC having substantial subject-matter interest therein.

§ 9.15

§ 9.15 Availability of records.

The NRC will make available for public inspection and copying any reasonably described agency record in the possession and control of the NRC under the provisions of this subpart, and upon request by any person. Records that the NRC routinely makes publicly available are described in § 9.21. Procedures and conditions governing requests for records are set forth in § 9.23.

§ 9.17 Agency records exempt from public disclosure.

(a) The following types of agency records are exempt from public disclosure under § 9.15:

(1) Records (i) which are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and (ii) which are in fact properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of the agency;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) Nothing in this subpart authorizes withholding of information or limiting the availability of records to the public except as specifically provided in this part, nor is this subpart authority to withhold information from Congress.

(c) Whenever a request is made which involves access to agency records described in paragraph (a)(7) of this section, the NRC may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this subpart when—

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that—

(i) The subject of the investigation or proceeding is not aware of its pendency; and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

§9.19 Segregation of exempt information and deletion of identifying details.

(a) For records required to be made available under 5 U.S.C. 552(a)(2), the NRC shall delete the name with any identifying details, if the release of the name or other identifying details of, or relating to, a private party will constitute a clearly unwarranted invasion of personal privacy. The NRC shall provide notification that names of parties and certain other identifying details have been removed in order to prevent a clearly unwarranted invasion of the personal privacy of the individuals involved.

(b) In responding to a request for information submitted under §9.23, in which it has been determined to withhold exempt information, the NRC shall segregate—

(1) Information that is exempt from public disclosure under §9.17(a) from nonexempt information; and

(2) Factual information from advice, opinions, and recommendations in predecisional records unless the information is inextricably intertwined, or is contained in drafts, legal work products, and records covered by the lawyer-client privilege, or is otherwise exempt from disclosure.

§9.21 Publicly available records.

(a) Publicly available records of NRC activities described in paragraphs (c) and (d) of this section are available through the National Technical Information Service. Subscriptions to these records are available on 48x microfiche and may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Single copies of NRC publications in the NUREG series, NRC Regulatory Guides, and Standard Review Plans are also available from the National Technical Information Service.

(b) For the convenience of persons who may wish to inspect without

charge or purchase copies of a record or a limited category of records for a fee, publicly available records of the NRC's activities described in paragraph (c) of this section are also made available at the NRC Public Document Room. The NRC Public Document Room is located at 2120 L Street, NW., Washington, DC, and is open between 7:45 a.m. and 4:15 p.m. on Monday through Friday, except legal holidays.

(c) The following records of NRC activities are publicly available at the NRC Public Document Room for public inspection and copying:

(1) Final opinions including concurring and dissenting opinions as well as orders of the NRC issued as a result of adjudication of cases;

(2) Statements of policy and interpretations which have been adopted by the NRC and have not been published in the FEDERAL REGISTER;

(3) Nuclear Regulatory Commission rules and regulations;

(4) Nuclear Regulatory Commission Manual and instructions to NRC personnel that affect any member of the public;

(5) Records made available for public inspection and copying under this chapter and the NRC Manual. (NRC Bulletin 3303-15 describes the "NRC Policy for Routinely Making NRC Records Publicly Available");

(6) Current indexes to records made available under 5 U.S.C. 552(a)(2) and that are made publicly available are listed in NUREG-0550, "Title of List of Documents Made Publicly Available," which is published monthly.

(d) Records made publicly available under paragraphs (c)(1), (2), and (5) of this section are also available for purchase through the National Technical Information Service.

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 43420, Oct. 27, 1988]

§9.23 Requests for records.

(a)(1) A person may request access to records routinely made available by the NRC under §9.21 in person or in writing at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555.

(1) Each record requested must be described in sufficient detail to enable the Public Document Room to locate

the record. If the description of the record is not sufficient to allow the Public Document Room staff to identify the record, the Public Document Room shall advise the requester to select the record from the indexes published under §9.21(c)(6).

(1) In order to obtain copies of records expeditiously, a person may open an account at the Public Document Room with the private contracting firm that is responsible for duplicating NRC records.

(2) A person may also order records routinely made available by the NRC under §9.21 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22161.

(b) A person may request agency records by submitting a request authorized by 5 U.S.C. 552(a)(3) to the Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The request must be in writing and clearly state on the envelope and in the letter that it is a "Freedom of Information Act request." The NRC does not consider a request as received until it has been received and logged in by the Director, Division of Freedom of Information and Publications Services, Office of Administration.

(1) A Freedom of Information request covers only agency records that are in existence on the date the Director, Division of Freedom of Information and Publications Services, receives the request. A request does not cover agency records destroyed or discarded before receipt of a request or which are created after the date of the request.

(2) All Freedom of Information Act requests for copies of agency records must reasonably describe the agency records sought in sufficient detail to permit the NRC to identify the requested agency records. Where possible, the requester should provide specific information regarding dates, titles, docket numbers, file designations, and other information which may help identify the agency records. If a requested agency record is not described in sufficient detail to permit its identification, the Director, Division of Freedom of Information and Publications

Services, shall inform the requester of the deficiency within 10 working days after receipt of the request and ask the requester to submit additional information regarding the request or meet with appropriate NRC personnel in order to clarify the request.

(3) Upon receipt of a request made under paragraph (b) of this section, the NRC shall provide written notification to the requester that indicates the request has been received, the name of the individual and telephone number to contact to find out the status of the request, and other pertinent matters regarding the processing of the request.

(4) (1) The NRC shall advise a requester that fees will be assessed if—

(A) A request involves anticipated costs in excess of the minimum specified in §9.39; and

(B) Search and duplication is not provided without charge under §9.39; or

(C) The requester does not specifically state that the cost involved is acceptable or acceptable up to a specified limit.

(1) The NRC has discretion to discontinue processing for records responsive to a request made under this paragraph (b) until—

(A) A required advance payment has been received;

(B) The requester has agreed to bear the estimated costs;

(C) A determination has been made on a request for waiver or reduction of fees; or

(D) The requester meets the requirements of §9.39.

(c) If a requested agency record that has been reasonably described is located at a place other than the NRC Public Document Room or NRC headquarters, the NRC may, at its discretion, make the record available for inspection and copying at the other location.

(d) Except as provided in §9.39—

(1) If the record requested under paragraph (b) of this section is a record available through the National Technical Information Service, the NRC shall refer the requester to the National Technical Information Service; and

(2) If the requested record has been placed in the NRC Public Document Room under §9.21, the NRC may inform

the requester that the record is in the PDR, and that the record may be obtained in accordance with the procedures set forth in paragraph (a) of this section.

(e) The Director, Division of Freedom of Information and Publications Services, shall promptly forward a Freedom of Information Act request made under § 9.23(b) for an agency record which is not publicly available in the NRC Public Document Room under § 9.21 to the head of the office primarily concerned with the records requested and to the General Counsel, as appropriate. The responsible office will conduct a search for the agency records responsive to the request and compile those agency records to be reviewed for initial disclosure determination under §§ 9.25 and 9.27.

[22 FR 49356, Dec. 31, 1987, as amended at 53 FR 43420, Oct. 27, 1988; 53 FR 52993, Dec. 30, 1988; 54 FR 53216, Dec. 28, 1989]

§ 9.25 Initial disclosure determination.

(a) The head of the responsible office shall review agency records located in a search under § 9.23(b) to determine whether the agency records are exempt from disclosure under § 9.17(a). If the head of the office determines that, although exempt, the disclosure of the agency records will not be contrary to the public interest and will not affect the rights of any person, the head of the office may authorize disclosure of the agency records. If the head of the office authorizes disclosure of the agency records, the head of the office shall furnish the agency records to the Director, Division of Freedom of Information and Publications Services, who shall notify the requester of the determination in the manner provided in § 9.27.

(b) Except as provided in paragraph (c) of this section, if, as a result of the review specified in paragraph (a) of this section, the head of the responsible office finds that agency records should be denied in whole or in part, the head of the office will submit that finding to the Director, Division of Freedom of Information and Publications Services, who will, in consultation with the Office of the General Counsel, make an independent determination whether the agency records should be denied in

whole or in part. If the Director, Division of Freedom of Information and Publications Services, determines that the agency records sought are exempt from disclosure and disclosure of the records is contrary to the public interest and will adversely affect the rights of any person, the Director, Division of Freedom of Information and Publications Services, shall notify the requester of the determination in the manner provided in § 9.27.

(c) For agency records located in the office of a Commissioner or in the Office of the Secretary of the Commission, the Assistant Secretary of the Commission shall make the initial determination to deny agency records in whole or in part under § 9.17(a) instead of the Director, Division of Freedom of Information and Publications Services. For agency records located in the Office of the General Counsel, the General Counsel shall make the initial determination to deny agency records in whole or in part instead of the Director, Division of Freedom of Information and Publications Services. For agency records located in the Office of the Inspector General, the Assistant Inspector General for Audits or the Assistant Inspector General for Investigations shall make the initial determination to deny agency records in whole or in part instead of the Director, Division of Freedom of Information and Publications Services. If the Assistant Secretary of the Commission, the General Counsel, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations determines that the agency records sought are exempt from disclosure and that their disclosure is contrary to the public interest and will adversely affect the rights of any person, the Assistant Secretary of the Commission, the General Counsel, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations shall furnish that determination to the Director, Division of Freedom of Information and Publications Services, who shall notify the requester of the determination in the manner provided in § 9.27.

(d) If a requested record that is located is one of another Government agency or deals with subject matter

over which an agency other than the NRC has exclusive or primary responsibility, the NRC shall promptly refer the record to that Government agency for disposition or for guidance regarding disposition.

(e) The 10-working day period for response to a request for agency records provided in paragraphs (a), (b), and (c) of this section may be extended for unusual circumstances as provided in §9.31.

(f) In exceptional circumstances where it does not appear possible to complete action on a request within the maximum 20 working-day limit as provided in §9.31, the Director, Division of Freedom of Information and Publications Services, may seek an agreement with the requester for a specified extension of time in which to act upon the request. The NRC shall confirm the agreement for an extension of time in writing.

(g) If the NRC does not respond to a request within the 10-working-day period, or within the extended periods described in paragraph (e) of this section, the requester may treat that delay as a denial of the request and immediately appeal to the Executive Director for Operations as provided in §9.29(a) or sue in a district court as noted in §9.29(c).

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988; 55 FR 33646, Aug. 17, 1990]

§9.27 Form and content of responses.

(a) When the NRC has located a requested agency record and has determined to disclose the agency record, the Director, Division of Freedom of Information and Publications Services, shall promptly furnish the agency record or notify the requester where and when the agency record will be available for inspection and copying. The NRC will normally place copies of agency records disclosed in response to Freedom of Information Act requests in the NRC Public Document Room and, for agency records relating to a specific nuclear power facility, in the Local Public Document Room established for that facility. The NRC shall also advise the requester of any applicable fees under §9.35.

(b) When the NRC denies access to a requested agency record or denies a request for a waiver or reduction of fees, the Director, Division of Freedom of Information and Publications Services, shall notify the requester in writing. The denial includes as appropriate—

(1) The reason for the denial;

(2) A reference to the specific exemption under the Freedom of Information Act and the Commission's regulations authorizing the withholding of the agency record or portions of it;

(3) The name and title or position of each person responsible for the denial of the request, including the head of the office recommending denial of a record;

(4) A statement stating why the request does not meet the requirements of §9.41 if the request is for a waiver or reduction of fees; and

(5) A statement that the denial may be appealed within 30 days from the receipt of the denial to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, as appropriate.

(c) The Director, Division of Freedom of Information and Publications Services, shall maintain a copy of each letter granting or denying requested agency records or denying a request for waiver or reduction of fees in accordance with the NRC Comprehensive Records Disposition Schedule.

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988; 55 FR 33646, Aug. 17, 1990]

§9.29 Appeal from initial determination.

(a) A requester may appeal a notice of denial of a Freedom of Information Act request for agency records or a request for waiver or reduction of fees under this subpart within 30 days of the date of the NRC's denial. For agency records denied by an Office Director reporting to the Executive Director for Operations or for a denial of a request for a waiver or reduction of fees, the appeal must be in writing and addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For agency records denied by an Office Director reporting to the Commission, the Assistant Secretary of the Commis-

ation, or the Advisory Committee Management Officer, the appeal must be in writing and addressed to the Secretary of the Commission. For agency records denied by the Assistant Inspector General for Audits or the Assistant Inspector General for Investigations, the appeal must be in writing and addressed to the Inspector General. The appeal should clearly state on the envelope and in the letter that it is an "Appeal from Initial FOIA Decision." The NRC does not consider an appeal that is not marked as indicated in this paragraph as received until it is actually received by the Executive Director for Operations, Secretary of the Commission, or the Inspector General.

(b) The NRC shall make determination on any appeal made under this section within 20 working days after the receipt of the appeal.

(c)(1) If the appeal of the denial of the request for agency records is upheld in whole or in part, the Executive Director for Operations, or a Deputy Director, or the Secretary of the Commission, or the Inspector General shall notify the requester of the denial specifying—

(i) The exemptions relied upon;

(ii) An explanation of how the exemption applies to the agency records withheld; and

(iii) The reasons for asserting the exemption.

(2) If, on appeal, the denial of a request for waiver or reduction of fees for locating and reproducing agency records is upheld in whole or in part, the Executive Director for Operations or a Deputy Executive Director shall notify the person making the request of his decision to sustain the denial, including a statement explaining why the request does not meet the requirements of § 9.41.

(3) The Executive Director for Operations, or a Deputy Executive Director, or the Secretary of the Commission, or the Inspector General shall inform the requester that the denial is a final agency action and that judicial review is available in a district court of the United States in the district in which the requester resides or has a principal place of business, in which the agency records are situated, or in the District of Columbia.

(d) The Executive Director for Operations, or a Deputy Executive Director, or the Secretary of the Commission, or the Inspector General shall furnish copies of all appeals and written determinations on appeals to the Director, Division of Freedom of Information and Publications Services.

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988; 54 FR 10138, Mar. 10, 1989; 55 FR 33646, Aug. 17, 1990]

§ 9.31 Extension of time for response.

(a) In unusual circumstances defined in § 9.13, the NRC may extend the time limits prescribed in § 9.25 or § 9.29 by not more than 10 working days. The extension may be made by written notice to the person making the request to explain the reasons for the extension and indicate the date on which a determination is expected to be dispatched.

(b) An extension of the time limits prescribed in §§ 9.25 and 9.29 may not exceed a combined total of 10 working days per request.

§ 9.33 Search, review, and special service fees.

(a) The NRC charges fees for—

(1) Search, duplication, and review, when agency records are requested for commercial use;

(2) Duplication of agency records provided in excess of 100 pages when agency records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, or a representative of the news media;

(3) Search and duplication of agency records in excess of 100 pages for any request not described in paragraphs (a) (1) and (2) of this section;

(4) The direct costs of searching for agency records. The NRC will assess fees even when no agency records are located as a result of the search or when agency records that are located as a result of the search are not disclosed; and

(5) Computer searches which include the cost of operating the Central Processing Unit for that portion of operating time that is directly attributable to searching for agency records plus the operator/programmer salary apportionable to the search.

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(b) The NRC may charge requesters who request the following services for the direct costs of the service:

- (1) Certifying that records are true copies; or
- (2) Sending records by special methods, such as express mail, package delivery service, etc.

§ 9.34 Assessment of interest and debt collection.

(a) The NRC shall assess interest on the fee amount billed starting on the 31st day following the day on which the billing was sent in accordance with NRC's regulations set out in § 15.37 of this chapter. Interest is at the rate prescribed in 21 U.S.C. 3717.

(b) The NRC will use its debt collection procedures under part 15 of this chapter for any overdue fees.

§ 9.35 Duplication fees.

(a)(1) Charges for the duplication of records made available under § 9.21 at the NRC Public Document Room (PDR), 2120 L Street, NW. (Lower Level), Washington, DC, by the duplicating service contractor are as follows:

(i) Paper to paper reproduction is \$0.09 per page up to and including 8½x14 inches. Pages 11x17 inches are \$0.20 each. Pages larger than 11x17 inches, including drawings, are \$1.00 each.

NOTE: Pages greater than legal size, 8½x14 inches, and smaller than or equal to 11x17 inches shall be reduced to legal size and reproduced for \$0.09 per page, unless the order specifically requests full size reproduction.

(ii) Microfiche to paper reproduction is \$0.09 per page. Aperture card blowbacks are \$3.00 each (reduced size) or \$5.00 (full size).

(iii) Microfiche or aperture card duplications are \$0.75 each.

(iv) Rush processing is offered for standard size paper to paper reproduction and blowbacks, excluding standing order documents and pages reproduced from bound volumes. The charge is \$0.10 per page.

(v) Facsimile charges are: \$0.30 per page—local calls; \$0.50 per page—U.S. long distance; and \$1.50 per page—foreign long distance. Facsimile orders are limited to 100 pages per order.

(2) Self-service duplicating machines are available at the PDR for the use of

the public. Paper to paper copy is \$0.10 per page. Microfiche to paper is \$0.10 per page on the reader printers.

(3) A requester may submit mail-order requests for contractor duplication of NRC records made by writing to the NRC Public Document Room. The charges for mail-order duplication of records are the same as those set out in paragraph (a)(1) of this section, plus mailing or shipping charges.

(4) A requester may open an account with the duplicating service contractor. A requester may obtain the name and address and billing policy of the contractor from the NRC Public Document Room.

(5) Any change in the costs specified in this section will become effective immediately pending completion of the Commission's rulemaking that amends this section to reflect the new charges. The Commission shall post the charges that will be in effect for the interim period in the Public Document Room. The Commission shall complete the rulemaking necessary to reflect the new charges within 15 working days from the beginning of the interim period.

(b) The NRC shall assess the following charges for copies of records to be duplicated by the NRC at locations other than the NRC Public Document Room located in Washington, DC or at local Public Document Rooms:

(1) Sizes up to 8½ x 14 inches made on office copying machines—\$0.20 per page of copy; and

(2) The charge for duplicating records other than those specified in paragraphs (a) and (b) is computed on the basis of NRC's direct costs.

(c) In compliance with the Federal Advisory Committee Act, a requester may purchase copies of transcripts of testimony in NRC Advisory Committee proceedings, which are transcribed by a reporting firm under contract with the NRC directly from the reporting firm at the cost of reproduction as provided for in the contract with the reporting firm. A requester may also purchase transcripts from the NRC at the cost of reproduction as set out in paragraphs (a) and (b) of this section.

(d) Copyrighted material may not be reproduced in violation of the copyright laws.

(e) Charges for the duplication of NRC records located in NRC Local Public Document Rooms are those costs that the institutions maintaining the NRC Local Public Document Room collections establish.

(52 FR 49356, Dec. 31, 1987, as amended at 56 FR 39995, July 20, 1993)

§9.37 Fees for search and review of agency records by NRC personnel.

The NRC shall charge the following hourly rates for search and review of agency records by NRC personnel:

(a) Clerical search, review, and duplication at a salary rate that is equivalent to a GG-7, Step 5 plus 16 percent fringe benefits;

(b) Professional/managerial search, review, and duplication at a salary rate that is equivalent to a GG-13, Step 5 plus 16 percent fringe benefits; and

(c) Senior executive or Commissioner search, review, and duplication at a salary rate that is equivalent to an ES-3 plus 16 percent fringe benefits.

§9.39 Search and duplication provided without charge.

(a) The NRC shall search for agency records requested under §9.23(b), without charges when agency records are not sought for commercial use and the records are requested by an educational or noncommercial scientific institution, or a representative of the news media.

(b) The NRC shall search for agency records requested under §9.23(b) without charges for the first two hours of search for any request not sought for commercial use and not covered in paragraph (a) of this section.

(c) The NRC shall duplicate agency records requested under §9.23(b) without charge for the first 100 pages of standard paper copies, or equivalent pages in microfiche, computer, disks, etc., if the requester is not a commercial-use requester.

(d) The NRC may not bill any requester for fees if the cost of collecting the fee would be equal to or greater than the fee itself.

(e) The NRC may aggregate requests in determining search and duplication to be provided without charge as provided in paragraphs (a) and (b) of this section, if the NRC finds a requester

has filed multiple requests for only portions of an agency record or similar agency records for the purpose of avoiding charges.

§9.40 Assessment of fees.

(a) If the request is expected to require the NRC to assess fees in excess of \$25 for search and/or duplication, the NRC shall notify the requester that fees will be assessed unless the requester has indicated in advance his or her willingness to pay fees as high as estimated.

(b) In the notification, the NRC shall include the estimated cost of search fees and the nature of the search required and estimated cost of duplicating fees.

(c) The NRC will encourage requesters to discuss with the NRC the possibility of narrowing the scope of the request with the goal of reducing the cost while retaining the requester's original objective.

(d) If the fee is determined to be in excess of \$250, the NRC shall require an advance payment.

(e) Unless a requester has agreed to pay the estimated fees or, as provided for in paragraph (d) of this section, the requester has paid an estimated fee in excess of \$250, the NRC may not begin to process the request.

(f) If the NRC receives a new request and determines that the requester has failed to pay a fee charged within 30 days of receipt of the bill on a previous request, the NRC may not accept the new request for processing until payment of the full amount owed on the prior request, plus any applicable interest assessed as provided in §9.34, is made.

(g) Within 10 working days of the receipt of NRC's notice that fees will be assessed, the requester shall provide advance payment if required, notify the NRC in writing that the requester agrees to bear the estimated costs, or submit a request for a waiver or reduction of fees pursuant to §9.41.

§9.41 Requests for waiver or reduction of fees.

(a)(1) The NRC shall collect fees for searching for, reviewing, and duplicating agency records, except as provided in §9.39, unless a requester submits a

request in writing for a waiver or reduction of fees. To assure that there will be no delay in the processing of Freedom of Information Act requests, the request for a waiver or reduction of fees should be included in the initial Freedom of Information Act request letter.

(2) Each request for a waiver or reduction of fees must be addressed to the Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(b) A person requesting the NRC to waive or reduce search, review, or duplication fees shall:

(1) Describe the purpose for which the requester intends to use the requested information;

(2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record;

(3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding;

(4) Describe the likely impact on the public's understanding of the subject as compared to the level of understanding of the subject existing prior to disclosure;

(5) Describe the size and nature of the public to whose understanding a contribution will be made;

(6) Describe the intended means of dissemination to the general public;

(7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee; and

(8) Describe any commercial or private interest the requester or any other party has in the agency records sought.

(c) The NRC will waive or reduce fees, without further specific information from the requester if, from information provided with the request for agency records made under §9.23(b), it can determine that disclosure of the information in the agency records is in the public interest because it is likely to contribute significantly to public

understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

(d) In making a determination regarding a request for a waiver or reduction of fees, the NRC shall consider the following factors:

(1) How the subject of the requested agency records concerns the operations or activities of the Government;

(2) How the disclosure of the information is likely to contribute to an understanding of Government operations or activities;

(3) If disclosure of the requested information is likely to contribute to public understanding;

(4) If disclosure is likely to contribute significantly to public understanding of Government operations or activities;

(5) If, and the extent to which, the requester has a commercial interest that would be furthered by the disclosure of the requested agency records; and

(6) If the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(e) If the written request for a waiver or reduction of fees does not meet the requirements of this section, the NRC will inform the requester that the request for waiver or reduction of fees is being denied and set forth the appeal rights under §9.29 to the requester.

[52 FR 49355, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988; 54 FR 53316, Dec. 28, 1989]

§9.43 Processing of requests for a waiver or reduction of fees.

(a) Within 10 working days after receipt of a request for access to agency records for which the NRC agrees to waive fees under §9.39(a) through (d) or §9.41(c), the NRC shall respond to the request as provided in §9.25.

(b) In making a request for a waiver or reduction of fees, a requester shall provide the information required by §9.41(b).

(c) After receipt of a request for the waiver or reduction of fees made in accordance with §9.41, the NRC shall either waive or reduce the fees and no-

tify the requester of the NRC's intent to promptly provide the agency records or deny the request and provide a statement to the requester explaining why the request does not meet the requirements of §9.41(b).

(d) As provided in §9.29, a requester may appeal a denial of a request to waive or reduce fees within 30 days to the Executive Director for Operations.

§9.45 Annual report to Congress.

(a) On or before March 1 of each calendar year, the Chairman of the NRC will submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report includes—

(1) The number of determinations made by the NRC to deny requests for records made to the NRC under this part and the reasons for each determination;

(2) The number of appeals made by persons under §9.29, the results of the appeals, and the reason for the action taken on each appeal that results in a denial of information;

(3) The names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) The results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records, or an explanation of why disciplinary action was not taken;

(5) A copy of every rule the NRC published affecting this part;

(6) A copy of the fee schedule and the total amount of fees collected by the NRC for making records available under this part; and

(7) Any other information that indicates efforts to administer fully the provisions of 5 U.S.C. 552.

(b) The NRC shall make a copy of each report submitted to the Congress under paragraph (a) of this section available for public inspection and copying in the NRC Public Document Room.

Subpart B—Privacy Act Regulations

SOURCE: 40 FR 44484, Sept. 26, 1975, unless otherwise noted.

§9.50 Scope of subpart.

This subpart implements the provisions of section 3 of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a, with respect to (a) the procedures by which individuals may determine the existence of, seek access to and request correction of NRC records concerning themselves, and (b) the requirements applicable to NRC personnel with respect to the use and dissemination of such records. The regulations in this subpart apply to all records which are retrievable from a system of records under the control of the Nuclear Regulatory Commission by the use of an individual's name or of an identifying number, symbol, or other identifying particular assigned to such individual. Except where specifically provided otherwise, this subpart applies to all NRC records maintained on individuals whether they predate or postdate September 27, 1975.

§9.51 Definitions.

As used in this subpart:

(a) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) The term *maintain* includes maintain, collect, use or disseminate.

(c) *Record* means any item, collection or grouping of information about an individual that is maintained by the NRC, including, but not limited to, his education, financial transactions, medical history, employment history or criminal history, and that contains the individual's name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) *System manager* means the NRC official responsible for maintaining a system of records.

(e) *Systems of records* means a group of records under the control of the NRC from which information is retrieved by the name of an individual or by an identifying number, symbol, or other

identifying particular assigned to an individual.

(f) *Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by the Census Act, 13 U.S.C. 8.

(g) *Routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected, as described in a notice published in the FEDERAL REGISTER.

PROCEDURES APPLICABLE TO REQUESTS
BY INDIVIDUALS FOR INFORMATION,
ACCESS OR AMENDMENT OF RECORDS
MAINTAINED ABOUT THEM

PRESENTATION OF REQUESTS

§9.52 Types of requests.

(a) Individuals may make the following requests respecting records about themselves maintained by NRC in a system of records subject to the provisions of the Privacy Act of 1974:

(1) Request a determination whether a record about the individual is contained in a system of records.

(2) Request access to a record about the individual. Access requests may include requests to review the record and to have a copy made of all or any portion thereof in a form comprehensible to the individual.

(3) Request correction or amendment of a record about the individual.

(b) *Requests for accounting of disclosures.* Individuals may, at any time, request an accounting by NRC of disclosures to any other person or Government agency of any record about themselves contained in a system of records controlled by NRC, except the following: (1) Disclosures made pursuant to the Freedom of Information Act, 5 U.S.C. 552; (2) disclosures made within the Nuclear Regulatory Commission; (3) disclosures made to another Government agency or instrumentality for an authorized law enforcement activity pursuant to 5 U.S.C. 552a(b)(7); (4) disclosures expressly exempted by NRC regulations from the requirements of 5 U.S.C. 552a(c)(3) pursuant to 5 U.S.C. 552a(k).

§9.53 Requests; how and where presented.

(a) Requests may be made in person or in writing. Assistance regarding requests or other matters relating to the Privacy Act of 1974 may be obtained by writing to the Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Requests relating to records in multiple systems of records should be made to the Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The Director, or his designee, shall assist the requestor in identifying his request more precisely and shall be responsible for forwarding the request to the appropriate system manager.

(b) All written requests shall be made to the Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter, as appropriate: "Privacy Act Request," "Privacy Act Disclosure Accounting Request," "Privacy Act Correction Request." A request that is not so marked will be deemed not to have been received by the NRC until it is actually received by the Director, Office of Administration.

(c) Requests may be made in person during official hours at the U.S. Nuclear Regulatory Commission office where the record is located, as listed in the "Notice of System of Records" for the system in which the record is contained.

[40 FR 44491, Sept. 26, 1975, as amended at 41 FR 20645, May 20, 1976; 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989]

§9.54 Verification of identity of individuals making requests.

(a) Identification requirements in paragraphs (a) (1) and (2) of this section are applicable to any individual who makes requests respecting records about himself, except that no verification of identity shall be required if the records requested are available to the public under the provisions of the Freedom of Information Act. With respect to certain sensitive records, additional requirements for verification of identity stated in the appropriate published "Notice of System of Records" may be imposed.

(1) *Written requests.* An individual making a written request respecting a record about himself may establish his identity by a signature, address, date of birth, employee identification number if any, and one other item of identification such as a photocopy of a driver's license or other document.

(2) *Requests in person.* An individual making a request in person respecting a record about himself may establish his identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear a name, address and signature (such as a driver's license or credit card).

(b) *Inability to provide requisite documentation of identity.* An individual making a request in person or in writing respecting a record about himself who cannot provide the necessary documentation of identity may provide a notarized statement, swearing or affirming to his identity and to the fact that he understands that penalties for false statements may be imposed pursuant to 18 U.S.C. 1001, and that penalties for obtaining a record concerning an individual under false pretenses may be imposed pursuant to 5 U.S.C. 552a(1)(3). Forms for such notarized statements may be obtained on request from the Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(c) *Verification of parentage or guardianship.* In addition to establishing the identity of the minor, or other individual he represents as required in paragraph (a) of this section, the parent or legal guardian of a minor or of an individual judicially determined to be incompetent shall establish his status as parent or guardian by furnishing a copy of a birth certificate of the minor showing parentage or a copy of a court order establishing guardianship.

[40 FR 44494, Sept. 26, 1975, as amended at 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989]

§ 9.55 Specification of records.

(a)(1) Requests relating to records shall, insofar as practicable, specify the nature of the record sought, the approximate dates covered by the record,

the system of records in which the record is thought to be included and the system manager having custody of the record system as shown in the annual compilation, "Notices of Records Systems", published by the General Services Administration. Requests shall, in addition, comply with any additional specification requirements contained in the published "Notice of System of Records" for that system.

(2) Requests for correction or amendment of records shall, in addition, specify the particular record involved, state the nature of the correction or amendment sought and furnish justification for the correction or amendment.

(b) Requests which do not contain information sufficient to identify the record requested will be returned promptly to the requestor, with a notice indicating what information is lacking. Individuals making requests in person will be informed of any deficiency in the specification of records at the time the request is made. Individuals making requests in writing will be notified of any such deficiency when their request is acknowledged.

§ 9.56 Accompanying persons.

An individual requesting access to records about himself may be accompanied by another individual of his own choosing. Both the individual requesting access and the individual accompanying him shall sign the required form indicating that the Nuclear Regulatory Commission is authorized to discuss the contents of the subject record in the presence of both individuals.

NRC PROCEDURES FOR PROCESSING REQUESTS

§ 9.60 Acknowledgement of requests.

(a) Written requests by individuals to verify the existence of, obtain access to or correct or amend records about themselves maintained by NRC in a system of records subject to the provisions of the Privacy Act of 1974, shall be acknowledged in writing by the Director, Office of Administration, or his designee, within ten working days after date of actual receipt. The acknowledgement shall advise the requestor if any additional information is needed to

§9.61

process the request. Wherever practicable, the acknowledgement shall notify the individual whether his request to obtain access to the record or to correct or amend the record has been granted or denied.

(b) When an individual requests access to records or permission to correct or amend records in person, every effort will be made to make an immediate determination as to whether access or correction or amendment should be granted. If an immediate determination cannot be made, the request will be processed in the same manner as a written request. Records will be made available for immediate inspection whenever possible.

[40 FR 44484, Sept. 26, 1975, as amended at 53 FR 17689, May 18, 1988; 54 FR 53316, Dec. 28, 1989]

§9.61 Procedures for processing requests for records exempt in whole or in part.

(a) When an individual requests information concerning the existence of, or access to, records about himself which have been compiled in reasonable anticipation of a civil action or proceeding in either a court or before an administrative tribunal, the NRC shall advise the individual only that no record available to him pursuant to the Privacy Act of 1974 has been identified.

(b) *Specific exemptions pursuant to 5 U.S.C. 552a(k).* Individual requests for access to records which have been exempted from access pursuant to the provisions of 5 U.S.C. 552a(k) and §9.95 shall be processed as follows:

(1) *Information classified pursuant to Executive Order 12356 and exempted pursuant to 5 U.S.C. 552a(k)(1).* (i) Requested information classified by NRC will be reviewed by the responsible official of the NRC to determine whether it continues to warrant classification under the criteria of section 1.3 of Executive Order 12356.

(ii) Information which no longer warrants classification under these criteria shall be declassified and made available to the individual. If the requested information has been classified by another agency, the responsible official of the NRC will request the classifying agency to review the information to ascertain if classification is

still warranted. If the information continues to warrant classification, the individual shall be advised that the information sought is classified, that it has been reviewed and continues to warrant classification, and that it has been exempted from access pursuant to 5 U.S.C. 552a(k)(1).

(2) *Investigatory material compiled for law enforcement purposes exempted pursuant to 5 U.S.C. 552a(k)(2).* Requests shall be responded to in the manner provided in paragraph (a) of this section unless a review of the information indicates that the information has been used or is being used to deny the individual any right, privilege or benefit for which he is eligible or to which he would otherwise be entitled under Federal law. In that event, the individual shall be advised of the existence of the information and shall be provided the information except to the extent it would reveal the identity of a confidential source. Information that would reveal the identity of a confidential source shall be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(3) *Material within a system of records required by statute to be maintained and used solely as statistical records and exempted pursuant to 5 U.S.C. 552a(k)(4).* The exempted information requested will be reviewed by the responsible official of the NRC to determine whether it continues to warrant exemption. Information which no longer warrants exemption shall be made available to the individual. If the information continues to warrant exemption, the individual shall be advised that the information sought is exempt from disclosure, that it has been reviewed and continues to warrant exemption, and that it has been exempted from access pursuant to 5 U.S.C. 552a(k)(4).

(4) *Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information and exempted pursuant to 5 U.S.C. 552a(k)(5).* Information exempted pursuant to 5 U.S.C. 552a(k)(5) shall be made available to an individual upon request except to the extent that the informa-

tion would reveal the identity of a confidential source. Material that would reveal the identity of a confidential source shall be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(5) *Testing or examination material exempted pursuant to 5 U.S.C. 552a(k)(6).* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service which has been exempted pursuant to 5 U.S.C. 552a(k)(6) shall not be made available to an individual if disclosure would compromise the objectivity or fairness of the testing or examination process but may be made available if no possibility of such compromise exists.

[40 FR 44484, Sept. 26, 1975, as amended at 44 FR 50804, Aug. 30, 1979; 50 FR 50284, Dec. 10, 1985]

§ 9.62 Special procedures.

(a) *Records under the control of another government agency.* (1) *Medical records.* Requests received by NRC pertaining to medical records under the control of the U.S. Public Health Service or another Government agency will either be referred to the appropriate agency or returned to the requestor with the name of the controlling Government agency, if known, within ten working days after receipt by NRC. NRC will inform the requestor of any referral of his request to another Government agency at the time the referral is made.

(2) *Nonmedical records.* Requests received by NRC pertaining to nonmedical records under the control of another Government agency will be returned to the requestor with the name of the controlling Government agency, if known, within ten working days after receipt by NRC.

[40 FR 44484, Sept. 26, 1975, as amended at 41 FR 44987, Oct. 14, 1976]

DETERMINATIONS AND APPEALS

§ 9.65 Access determinations; appeals.

(a) *Initial determinations.* For agency records located in the Office of the Inspector General, the Assistant Inspector General for Audits or the Assistant

Inspector General for Investigations shall determine whether access to the record is available under the Privacy Act. For all other agency records, the Director, Office of Administration, or the Director's designee, with the advice of the system manager having control of the record to which access is requested, shall determine whether access to the record is available under the Privacy Act. The Director, Office of Administration, or the Director's designee, shall notify the requesting individual in person or in writing of the determination. Unless the request presents unusual difficulties or involves extensive numbers of records, individuals shall be notified of determinations to grant or deny access within 30 working days after receipt of the request.

(1) Notices granting access shall inform the individual when and where the requested record may be seen, how copies may be obtained, and of any fees or anticipated charges which may be incurred pursuant to § 9.85 of this subpart.

(2) Notices denying access must state the reasons for the denial, and advise the individual that the denial may be appealed to the Inspector General, for agency records located in the Office of Inspector General, or the Executive Director for Operations, for all other agency records, in accordance with the procedures set forth in this section.

(b) *Appeals from denials of access.* If an individual has been denied access to a record the individual may request a final review and determination of that individual's request by the Inspector General or the Executive Director for Operations as appropriate. A request for final review of an initial determination must be filed within 60 days of the receipt of the initial determination. For agency records denied by the Assistant Inspector General for Audits or the Assistant Inspector General for Investigations, the appeal must be in writing and addressed to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For agency records denied by the Director, Office of Administration, or the Director's designee, the appeal must be in writing addressed to the Executive Director for Operations. The appeal should clearly state on the envelope

and in the letter "Privacy Act Appeal-Denial of Access." The NRC does not consider an appeal that is not marked as indicated in this paragraph as received until it is actually received by the Inspector General or Executive Director for Operations.

(c) *Final determinations.* (1) The Inspector General, or the Executive Director for Operations or the EDO's designee, shall make a final determination within 30 working days of the receipt of the request for final review, unless the time is extended for good cause shown such as the need to obtain additional information, the volume of records involved, or the complexity of the issue. The extension of time may not exceed 30 additional working days. The requester shall be advised in advance of any extension of time and of the reasons therefor.

(2) If the Inspector General, or the Executive Director for Operations or the EDO's designee, determines that access was properly denied because the information requested has been exempted from disclosure, the Inspector General, or the Executive Director for Operations or the EDO's designee shall undertake a review of the exemption to determine whether the information should continue to be exempt from disclosure. The Inspector General, or the Executive Director for Operations or the EDO's designee, shall notify the individual in writing of the final agency determination to grant or deny the request for access. Notices denying access must state the reasons therefor and must advise the individual of his/her right to judicial review pursuant to 5 U.S.C. 552a(g).

[40 FR 44484, Sept. 26, 1975, as amended at 41 FR 20645, May 20, 1976; 41 FR 25697, June 24, 1976; 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989; 55 FR 33647, Aug. 17, 1990]

§9.66 Determinations authorizing or denying correction of records; appeals.

(a) *Initial determinations.* (1) For agency records located in the Office of the Inspector General, the Assistant Inspector General for Audits or the Assistant Inspector General for Investigations shall determine whether to authorize or refuse correction or amendment of a record. For all other agency

records, the Director, Office of Administration, or the Director's designee, with the advice of the system manager having control of the record, shall determine whether to authorize or refuse correction or amendment of a record. The Director, Office of Administration, or the Director's designee, shall notify the requesting individual. Unless the request presents unusual difficulties or involves extensive numbers of records, individuals must be notified of determinations to authorize or refuse correction or amendment of a record within 30 working days after receipt of the request. In making this determination, the NRC official shall be guided by the following standards:

(i) Records shall contain only such information about an individual as is relevant and necessary to accomplish an NRC function required to be accomplished by statute or by executive order of the President;

(ii) Records used by NRC in making any determination about any individual shall be as accurate, relevant, current, and complete as is reasonably necessary to assure fairness to the individual in the determination;

(iii) No record shall describe how any individual has exercised rights guaranteed by the First Amendment unless such record is expressly authorized by statute or by the individual about whom the record is maintained, or is pertinent to and within the scope of an authorized law enforcement activity.

(2) For agency records located in the Office of Inspector General, if correction or amendment of a record is authorized, the Assistant Inspector General for Audits or the Assistant Inspector General for Investigations shall correct or amend the record. For all other agency records, the Director, Office of Administration, or the Director's designee, shall correct or amend the record. The Director, Office of Administration, or the Director's designee shall notify the requesting individual in writing that the correction or amendment has been made and provide the individual with a courtesy copy of the corrected record.

(3) If correction or amendment of a record is refused, the Director, Office of Administration or the Director's designee, shall notify the requesting

individual in writing of the refusal and the reasons therefor, and shall advise the individual that the refusal may be appealed to the Inspector General or the Executive Director for Operations, as appropriate, in accordance with the procedures set forth in this section.

(b) *Appeals from initial adverse determinations.* If an individual's request to amend or correct a record has been denied, in whole or in part, the individual may request a final review and determination of that individual's request by the Inspector General or the Executive Director for Operations, as appropriate. A request for final review of an initial determination must be filed within 60 days of the receipt of the initial determination. For agency records located in the Office of the Inspector General, the appeal must be in writing and addressed to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For agency records located in all other offices, the appeal must be in writing addressed to the Executive Director for Operations. The appeal should clearly state on the envelope and in the letter "Privacy Act Correction Appeal." The NRC does not consider an appeal that is not marked as indicated in this paragraph as received until it is actually received by the Inspector General or Executive Director for Operations. Requests for final review must set forth the specific item of information sought to be corrected or amended and should include, where appropriate, documents supporting the correction or amendment.

(c) *Final determinations.* (1) The Inspector General, for agency records located in the Office of the Inspector General, or the Executive Director for Operations or the EDO's designee, for all other agency records, shall make a final agency determination within 30 working days of receipt of the request for final review, unless the time is extended for good cause shown such as the need to obtain additional information, the volume of records involved, or the complexity of the issue. The extension of time may not exceed 30 additional working days. The requester shall be advised in advance of any extension of time and of the reasons therefor.

(2) For agency records located in the Office of the Inspector General, if the Inspector General makes a final determination that an amendment or correction of the record is warranted on the facts, the Inspector General or the IG's designee, shall correct or amend the record pursuant to the procedures in §9.66(a)(2). For all other agency records, if the Executive Director for Operations, or the EDO's designee, makes a final determination that an amendment or correction of the record is warranted on the facts, the EDO or the EDO's designee, shall notify the Director, Office of Administration, to correct or amend the record to the procedures in §9.66(a)(2).

(3) If the Inspector General, or the Executive Director for Operations or the EDO's designee, makes a final determination that an amendment or correction of the record is not warranted on the facts, the individual shall be notified in writing of the refusal to authorize correction or amendment of the record in whole or in part, and of the reasons therefor, and the individual shall be advised of his/her right to provide a "Statement of Disagreement" for the record and of his/her right to judicial review pursuant to 5 U.S.C. 552a(g).

[40 FR 44494, Sept. 26, 1975, as amended at 41 FR 20645, May 20, 1976; 41 FR 25397, June 24, 1976; 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989; 55 FR 33647, Aug. 17, 1990]

§9.67 Statements of disagreement.

(a) Written "Statement of Disagreement" may be furnished by the individual within 30 working days of the date of receipt of the final adverse determination of the Inspector General or the Executive Director for Operations. "Statements of Disagreement" must be addressed, as appropriate, to the Inspector General or the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should be clearly marked on the statement and on the envelope "Privacy Act Statement of Disagreement".

(b) The Inspector General or the Executive Director for Operations, or their designees, as appropriate, are responsible for ensuring that: (1) The "Statement of Disagreement" is in-

cluded in the system or systems of records in which the disputed item of information is maintained; and (2) the original record is marked to indicate the information disputed, the existence of a "Statement of Disagreement" and the location of the "Statement of Disagreement" within the system of records.

[55 FR 33848, Aug. 17, 1990]

§ 9.68 NRC statement of explanation.

The Inspector General, or the Executive Director for Operations or the EDO's designee, may if deemed appropriate, prepare a concise statement of the reasons why the requested amendments or corrections were not made. Any NRC "Statement of Explanation" must be included in the system of records in the same manner as the "Statement of Disagreement". Courtesy copies of the NRC statement and of the notation of the dispute as marked on the original record must be furnished to the individual who requested correction or amendment of the record.

[55 FR 33848, Aug. 17, 1990]

§ 9.69 Notices of correction or dispute.

(a) When a record has been corrected upon request or when a "Statement of Disagreement" has been filed, the Director, Office of Administration, or his designee, shall, within 30 working days thereof, advise all prior recipients of the affected record whose identity can be determined pursuant to an accounting of disclosures required by the Privacy Act or any other accounting previously made, of the correction or of the filing of the "Statement of Disagreement".

(b) Any disclosure of disputed information occurring after a "Statement of Disagreement" has been filed shall clearly identify the specific information disputed and be accompanied by a copy of the "Statement of Disagreement" and a copy of any NRC "Statement of Explanation".

[40 FR 44484, Sept. 26, 1975, as amended at 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989]

DISCLOSURE TO OTHERS OF RECORDS
ABOUT INDIVIDUALS

§ 9.80 Disclosure of record to persons other than the individual to whom it pertains.

(a) NRC Commissioners and NRC personnel shall not disclose any record which is contained in a system of records maintained by NRC by any means of communication to any person, or to another Government agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record is:

(1) To NRC Commissioners and NRC personnel who have a need for the record in the performance of their duties;

(2) Required under 5 U.S.C. 552;

(3) For a routine use published in the FEDERAL REGISTER;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record and the record is transferred in a form that is not individually identifiable. The advance written statement of assurance shall (i) state the purpose for which the record is requested, and (ii) certify that the record will be used only for statistical purposes. Prior to release for statistical purposes in accordance with the provisions of this paragraph, the record shall be stripped of all personally identifying information and reviewed to ensure that the identity of any individual cannot reasonably be determined by combining two or more statistical records;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or to the Administrator of General Services or his designee for evaluation to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the NRC specifying the particular portion of the record desired and the law enforcement activity for which the record is sought. A record may be disclosed to a law enforcement agency at the initiative of the NRC if criminal conduct is suspected, provided that such disclosure has been established as a routine use by publication in the FEDERAL REGISTER, and the instance of misconduct is directly related to the purpose for which the record is maintained;

(8) To any person upon a showing of compelling circumstances affecting the health or safety of any individual;

(9) To either House of Congress or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof or to any joint committee of the Congress or to any subcommittee of such joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

§ 9.81 Notices of subpoenas.

When records concerning an individual are subpoenaed or otherwise disclosed pursuant to court order, the NRC officer or employee served with the subpoena shall be responsible for assuring that the individual is notified of the disclosure within five days after such subpoena or other order becomes a matter of public record. The notice shall be mailed to the last known address of the individual and shall contain the following information: (a) The date the subpoena is returnable; (b) the court in which it is returnable; (c) the name and number of the case or proceeding; and (d) the nature of the information sought.

§ 9.82 Notices of emergency disclosures.

When information concerning an individual has been disclosed to any person under compelling circumstances affecting health or safety, the NRC officer or employee who made or authorized the disclosure shall notify the individual at his last known address within five days of the disclosure. The notice shall contain the following information: (a) The nature of the information disclosed; (b) the person or agency to whom the information was disclosed; (c) the date of the disclosure; and (d) the compelling circumstances justifying the disclosure.

FEES

§ 9.85 Fees.

Fees shall not be charged for search for or review of records requested pursuant to this subpart or for making copies or extracts of records in order to make them available for review. Fees established pursuant to 31 U.S.C. 483c and 5 U.S.C. 552a(f)(5) shall be charged according to the schedule contained in § 9.35 of this part for actual copies of records requested by individuals, pursuant to the Privacy Act of 1974, unless the Director, Division of Freedom of Information and Publications Services, waives the fee because of the inability of the individual to pay or because making the records available without cost, or at a reduction in cost, is otherwise in the public interest.

[52 FR 49362, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988]

ENFORCEMENT

§ 9.90 Violations.

(a) An injunction or other court order may be obtained pursuant to 5 U.S.C. 552a(g) (1-3) to compel NRC to permit an individual to review, amend or copy a record pertaining to him, or to be accompanied by someone of his own choosing when he reviews his record. A court order may be obtained for the payment of a civil penalty imposed pursuant to 5 U.S.C. 552a(g)(4) if NRC intentionally or willfully fails to maintain a record accurately, or fails

to comply with any provision of 5 U.S.C. 552a, or any provision of this subpart, if such failure results in an adverse determination or has an adverse effect on an individual. Court costs and attorney's fees may be awarded in civil actions.

(b) Any officer or employee of NRC who willfully maintains a system of records without meeting the notice requirements of 5 U.S.C. 552a(e)(4), or who willfully discloses information knowing such disclosure to be prohibited by 5 U.S.C. 552a or by any rules or regulations issued thereunder, may be guilty of a criminal misdemeanor and upon conviction may be fined up to \$5000. Any person who knowingly and willfully requests or obtains any record concerning an individual from NRC under false pretenses may be convicted of a criminal misdemeanor and upon conviction may be fined up to \$5,000.

EXEMPTIONS

§ 9.96 Specific exemptions.

The following records, contained in the designated NRC Systems of Records (NRC-5, NRC-9, NRC-11, NRC-18, NRC-22, NRC-28, NRC-29, NRC-31, NRC-33, NRC-37, NRC-39, and NRC-40) are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) in accordance with 5 U.S.C. 552a(k). Each of these records is subject to the provisions of § 9.61:

- (a) Contracts Records Files, NRC-5;
- (b) Equal Employment Opportunity Records Files, NRC-9;
- (c) General Personnel Records (Official Personnel Folder and Related Records), NRC-11;
- (d) Investigative Offices Index, Files, and Associated Records, NRC-18;
- (e) Personnel Performance Appraisals, NRC-22;
- (f) Recruiting, Examining, and Placement Records, NRC-28;
- (g) Document Control System, NRC-29;
- (h) Correspondence and Records Branch, Office of the Secretary, NRC-31;
- (i) Special Inquiry File, NRC-33;
- (j) Information Security Files and Associated Records, NRC-37;
- (k) Personnel Security Files and Associated Records, NRC-39; and

(l) Facility Security Support Files and Associated Records, NRC-40.

[52 FR 760, Jan. 9, 1987]

Subpart C--Government in the Sunshine Act Regulations

SOURCE: 42 FR 12877, Mar. 7, 1977, unless otherwise noted.

§ 9.100 Scope of subpart.

This subpart prescribes procedures pursuant to which NRC meetings shall be open to public observation pursuant to the provisions of 5 U.S.C. 552b. This subpart does not affect the procedures pursuant to which NRC records are made available to the public for inspection and copying which remain governed by subpart A, except that the exemptions set forth in § 9.104(a) shall govern in the case of any request made pursuant to § 9.23 to copy or inspect the transcripts, recordings, or minutes described in § 9.108. Access to records considered at NRC meetings shall continue to be governed by subpart A of this part.

[52 FR 49362, Dec. 31, 1987]

§ 9.101 Definitions.

As used in this subpart:

- (a) *Commission* means the collegial body of five Commissioners or a quorum thereof as provided by section 201 of the Energy Reorganization Act of 1974, or any subdivision of that collegial body authorized to act on its behalf, and shall not mean any body not composed of members of that collegial body.
- (b) *Commissioner* means an individual who is a member of the Commission.
- (c) *Meeting* means the deliberations of at least a quorum of Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, that is, where discussions are sufficiently focused on discrete proposals or issues as to cause or to be likely to cause the individual participating members to form reasonably firm positions regarding matters pending or likely to arise before the agency. Deliberations required or permitted by §§ 9.105, 9.106, or 9.108(c) do not con-

stitute "meetings" within this definition.

(d) *Closed meeting* means a meeting of the Commission closed to public observation as provided by § 9.104.

(e) *Open meeting* means a meeting of the Commission open to public observation pursuant to this subpart.

(f) *Secretary* means the Secretary to the Commission.

(g) *General Counsel* means the General Counsel of the commission as provided by section 25(b) of the Atomic Energy Act of 1954 and section 201(f) of the Energy Reorganization Act of 1974, and, until such time as the offices of that officer are in the same location as those of the Commission, any member of his office specially designated in writing by him pursuant to this subsection to carry out his responsibilities under this subpart.

[42 FR 12877, Mar. 7, 1977, as amended at 50 FR 20891, May 21, 1985]

§ 9.102 General requirement.

Commissioners shall not jointly conduct or dispose of Commission business in Commission meetings other than in accordance with this subpart. Except as provided in § 9.104, every portion of every meeting of the Commission shall be open to public observation.

§ 9.103 General provisions.

The Secretary shall ensure that all open Commission meetings are held in a location such that there is reasonable space and adequate visibility and acoustics, for public observation. No additional right to participate in Commission meetings is granted to any person by this subpart. An open meeting is not part of the formal or informal record of decision of the matters discussed therein except as otherwise required by law. Statements of views or expressions of opinion made by Commissioners or NRC employees at open meetings are not intended to represent final determinations or beliefs. Such statements may not be pleaded, cited, or relied upon before the Commission or in any proceeding under part 2 of these regulations (10 CFR part 2) except as the Commission may direct. Members of the public attending open Commission meetings may use small electronic sound recorders to record

the meeting, but the use of other electronic recording equipment and cameras requires the advance written approval of the Secretary.

[42 FR 12877, Mar. 7, 1977, as amended at 43 FR 13055, Mar. 29, 1978; 43 FR 37421, Aug. 23, 1978]

§ 9.104 Closed meetings.

(a) Except where the Commission finds that the public interest requires otherwise, Commission meetings shall be closed, and the requirements of §§ 9.105 and 9.107 shall not apply to any information pertaining to such meeting otherwise required by this subpart to be disclosed to the public, where the Commission determines in accordance with the procedures of § 9.105 that opening such meetings or portions thereof or disclosing such information, is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552) provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including such information as defined in § 2.790(d) of this title;

(5) Involve accusing any person of a crime, imposing a civil penalty on any person pursuant to 42 U.S.C. 2282 or 42 U.S.C. 5846, or any revocation of any license pursuant to 42 U.S.C. sec. 2236, or formally censuring any person;

(6) Disclose information of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory reports compiled for law enforcement purposes.

including specifically enforcement of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*, and the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5801 *et seq.*, or information which if written would be contained in such records, but only to the extent that the production of such records or information would: (i) Interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) [Reserved]

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action, except that this subparagraph shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpoena, or the Commission's participation in a civil action or proceeding or an action or proceeding before a state or federal administrative agency, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the Commission of a particular case of formal agency adjudication pursuant to 5 U.S.C. 554 or otherwise involving a determination on the record after an opportunity for a hearing pursuant to part 2 or similar provisions.

(b) Examples of situations in which Commission action may be deemed to be significantly frustrated are: (1) If opening any Commission meeting or negotiations would be likely to dis-

close information provided or requests made to the Commission in confidence by persons outside the Commission and which would not have been provided or made otherwise; (2) if opening a meeting or disclosing any information would reveal legal or other policy advice, public knowledge of which could substantially affect the outcome or conduct of pending or reasonably anticipated litigation or negotiations; or (3) if opening any meeting or disclosing any information would reveal information requested by or testimony or proposals to be given to other agencies of government, including the Congress and the Executive Branch before the requesting agency would receive the information, testimony or proposals. The examples in the above sentence are for illustrative purposes only and are not intended to be exhaustive.

§9.105 Commission procedures.

(a) Action under §9.104 shall be taken only when a majority of the entire membership of the Commission votes to take such action. A separate vote of the Commissioners shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to §9.104, or which respect to any information which is proposed to be withheld under §9.106(c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(b) Within one day of any vote taken pursuant to paragraph (a) of this section, §9.106(a) or §9.106(c) the Secretary shall make publicly available in the Public Document Room a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, within one day of the vote taken pursuant to paragraph (a) of this section or §9.106(a), make

publicly available in the Public Document Room a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(c) The notices and lists required by paragraph (b) of this section to be made public may be withheld from the public to the extent that the Commission determines that such information itself would be protected against disclosure by § 9.104(a). Any such determination shall be made independently of the Commission's determination pursuant to paragraph (a) of this section to close a meeting, but in accordance with the procedure of that subsection. Any such determination, including a written explanation for the action and the specific provision or provisions of § 9.104(a) relied upon, must be made publicly available to the extent permitted by the circumstances.

§ 9.106 Persons affected and motions for reconsideration.

(a) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraphs (a) (5), (6), or (7) of § 9.104, the Commission, upon request of any one Commissioner, shall vote by recorded vote whether to close such meeting.

(b) Any person may petition the Commission to reconsider its action under § 9.105(a) or paragraph (a) of this section by filing a petition for reconsideration with the Commission within seven days after the date of such action and before the meeting in question is held.

(c) A petition for reconsideration filed pursuant to paragraph (b) of this section shall state specifically the grounds on which the Commission action is claimed to be erroneous, and shall set forth, if appropriate, the public interest in the closing or opening of the meeting. The filing of such a petition shall not act to stay the effectiveness of the Commission action or to postpone or delay the meeting in question unless the Commission orders otherwise.

§ 9.107 Public announcement of Commission meetings.

(a) In the case of each meeting, the Secretary shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the Commission determines by a recorded vote that Commission business requires that such meeting be called at an earlier date, in which case the Secretary shall make public announcement of the time, place and subject matter of such meeting, and whether open or closed to the public, at the earliest practical time.

(b) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Secretary publicly announces such changes at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if: (1) A majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (2) the Secretary publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(c) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

(d) The public announcement required by paragraph (a) of this section shall consist of the Secretary:

(1) Publicly posting a copy of the document in the Public Document Room

2120 L Street, NW., Washington, DC; and, to the extent appropriate under the circumstances;

(2) Mailing a copy to all persons whose names are on a mailing list maintained for this purpose;

(3) Submitting a copy for possible publication to at least two newspapers of general circulation in the Washington, DC metropolitan area;

(4) Any other means which the Secretary believes will serve to further inform any persons who might be interested.

(e) Action under the second sentence of paragraph (a) or (b) of this section shall be taken only when the Commission finds that the public interest in prompt Commission action or the need to protect the common defense or security or to protect the public health or safety overrides the public interest in having full prior notice of Commission meetings.

[42 FR 12877, Mar. 7, 1977, as amended at 53 FR 49420, Oct. 27, 1988]

§ 9.108 Certification, transcripts, recordings and minutes.

(a) For every meeting closed pursuant to paragraphs (a) (1) through (10) of § 9.104 and for every determination pursuant to § 9.105(c), the General Counsel shall publicly certify at the time of the public announcement of the meeting, or if there is no public announcement at the earliest practical time, that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision unless the Commission votes pursuant to § 9.105(c) that such certification is protected against disclosure by § 9.104(a). A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission. The Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (c)(10) of § 9.104, the Commission shall maintain such a transcript, or recording or a set of minutes. Such min-

utes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(b) The Commission shall make promptly available to the public, in the Public Document Room, the transcript, electronic recording, or minutes (as required by paragraph (a) of this section) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Commission determines pursuant to paragraph (c) of this section to contain information which may be withheld under § 9.104 or § 9.105(c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person upon payment of the actual cost of duplication or transcription as provided in § 9.14. The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(c) In the case of any meeting closed pursuant to § 9.104, the Secretary of the Commission, upon the advice of the General Counsel and after consultation with the Commission, shall determine which, if any, portions of the electronic recording, transcript or minutes and which, if any, items of information withheld pursuant to § 9.105(c) contain information which should be withheld pursuant to § 9.104, in the event that a request for the recording, transcript, or minutes is received within the period during which the recording, transcript, or minutes must be retained, under paragraph (b) of this section.

(d) If at some later time the Commission determines that there is no further justification for withholding any transcript, recording or other item of information from the public which has previously been withheld, then such information shall be made available.

[42 FR 12877, Mar. 7, 1977, as amended at 50 FR 20891, May 21, 1985]

§ 9.109 Report to Congress.

The Secretary shall annually report to the Congress regarding the Commission's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Commission pursuant to the Government in the Sunshine Act, including any cost assessed against the Commission in such litigation (whether or not paid by the Commission).

Subpart D—Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities

SOURCE: 50 FR 37645, Sept. 17, 1985, unless otherwise noted.

§ 9.200 Scope of subpart.

(a) This subpart sets forth the procedures to be followed when a subpoena, order, or other demand (hereinafter referred to as a "demand") for the production of NRC records or disclosure of NRC information, including testimony regarding such records, is issued by a court or other judicial or quasi-judicial authority in a proceeding, excluding Federal grand jury proceedings, to which the NRC is not a party. Information and documents subject to this subpart include:

(1) Any material contained in the files of the NRC;

(2) Any information relating to material contained in the files of the NRC.

(b) For purposes of this subpart, the term "employee of the NRC" includes all NRC personnel as that term is defined in § 9.3 of this part, including NRC contractors.

(c) This subpart is intended to provide instructions regarding the internal operations of the NRC and is not intended, and does not, and may not, be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against the NRC.

[50 FR 37645, Sept. 17, 1985, as amended at 52 FR 49382, Dec. 31, 1987]

§ 9.201 Production or disclosure prohibited unless approved by appropriate NRC Official.

No employee of the NRC shall, in response to a demand of a court or other judicial or quasi-judicial authority, produce any material contained in the files of the NRC or disclose, through testimony or other means, any information relating to material contained in the files of the NRC, or disclose any information or produce any material acquired as part of the performance of that employee's official duties or official status without prior approval of the appropriate NRC official. When the demand is for material contained in the files of the Office of the Inspector General or for information acquired by an employee of that Office, the Inspector General is the appropriate NRC official. In all other cases, the General Counsel is the appropriate NRC official.

[55 FR 33648, Aug. 17, 1990]

§ 9.202 Procedure in the event of a demand for production or disclosure.

(a) Prior to or simultaneous with a demand upon an employee of the NRC for the production of material or the disclosure of information described in § 9.200, the party seeking production or disclosure shall serve the General Counsel of the NRC with an affidavit or statement as described in paragraphs (b) (1) and (2) of this section. Except for employees in the Office of Inspector General, whenever a demand is made upon an employee of the NRC for the production of material or the disclosure of information described in § 9.200, that employee shall immediately notify the General Counsel. If the demand is made upon a regional NRC employee, that employee shall immediately notify the Regional Counsel who, in turn, shall immediately request instructions

from the General Counsel. If the demand is made upon an employee in the Office of Inspector General, that employee shall immediately notify the Inspector General. The Inspector General shall immediately provide a copy of the demand to the General Counsel, and as deemed necessary, consult with the General Counsel.

(b)(1) If oral testimony is sought by the demand, a summary of the testimony desired must be furnished to the General Counsel by a detailed affidavit or, if that is not feasible, a detailed statement by the party seeking the testimony or the party's attorney. This requirement may be waived by the General Counsel in appropriate circumstances.

(2) The General Counsel may request a plan from the party seeking discovery of all demands then reasonably foreseeable, including but not limited to, names of all NRC personnel from whom discovery is or will be sought, areas of inquiry, length of time away from duty involved, and identification of documents to be used in each deposition, where appropriate.

(c) The Inspector General or the General Counsel will notify the employee and such other persons, as circumstances may warrant, of the decision on the matter.

[50 FR 37645, Sept. 17, 1985, as amended at 55 FR 33648, Aug. 17, 1990]

§9.203 Procedure where response to demand is required prior to receiving instructions.

If a response to the demand is required before the instructions from the Inspector General or the General Counsel are received, a U.S. attorney or NRC attorney designated for the purpose shall appear with the employee of the NRC upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been, or is being, as the case may be, referred for the prompt consideration of the appropriate NRC official and shall respectfully request the court or authority to stay the demand pending receipt of the requested instructions. In the event that an immediate demand for produc-

tion or disclosure is made in circumstances which would preclude the proper designation or appearance of a U.S. or NRC attorney on the employee's behalf, the employee shall respectfully request the demanding authority for sufficient time to obtain advice of counsel.

[55 FR 33649, Aug. 17, 1990]

§9.204 Procedure in the event of an adverse ruling.

If the court or other judicial or quasi-judicial authority declines to stay the effect of the demand in response to a request made in accordance with §9.203 pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand, citing these regulations and *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

PART 10—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION OR AN EMPLOYMENT CLEARANCE

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**APPENDIX L
MANAGEMENT DIRECTIVE 12.6
NRC SENSITIVE UNCLASSIFIED INFORMATION
SECURITY PROGRAM**

NRC Sensitive Unclassified Information Security Program

Directive

*(Formerly
MC 2101)*

12.6

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NRC Sensitive Unclassified Information Security Program Directive 12.6

Policy (12.6-01)

All U.S. Nuclear Regulatory Commission (NRC) personnel responsible for the safeguarding of sensitive unclassified information (e.g., Official Use Only information, Limited Official Use information, and unclassified Safeguards Information), other sensitive information, and activities involving this information must adhere to the authorities, responsibilities, and procedures specified in this directive and handbook. This directive and handbook do not affect Commission rules and regulations contained in the *Code of Federal Regulations* that are applicable to NRC licensees and others.

Objective (12.6-02)

To ensure that sensitive unclassified information is handled appropriately and is protected from unauthorized disclosure under pertinent laws, management directives, and applicable directives of other Federal agencies and organizations.

Organizational Responsibilities and Delegations of Authority (12.6-03)

The Executive Director for Operations (EDO) (031)

Acts on appeals for denial of information requested under the Freedom of Information Act (FOIA) when the request involves information generated by offices reporting to the EDO, and acts on all appeals for denial of information requested under the Privacy Act.

Volume 12, Security
NRC Sensitive Unclassified Information Security Program
Directive 12.6

**The Director, Office of
Administration (ADM)**
(032)

Provides overall NRC security program guidance and direction and ensures that NRC's security program is effectively and efficiently carried out by the NRC Division of Security.

**Office Directors and
Regional Administrators**
(033)

- Ensure that NRC employees and NRC contractor personnel under their jurisdiction are cognizant of and comply with the provisions of this directive and handbook. (a)
- Advise SEC of any existing or proposed sensitive unclassified activities in organizations under their jurisdiction. Report any significant change or termination of sensitive unclassified activities to SEC for review of associated contracts, subcontracts, or similar actions. (b)
- Advise SEC of any information that indicates noncompliance with this directive and handbook or is otherwise pertinent to the proper protection of sensitive unclassified information. (c)
- Request exceptions to or deviations from this directive and handbook, as required. (d)

**The Director, Division of
Security (SEC), ADM**
(034)

Plans, develops, establishes, and administers policies, standards, and procedures for the NRC Sensitive Unclassified Information Security Program.

Applicability
(12.6-04)

Employees
(041)

This directive and handbook apply to and must be followed by all NRC employees and consultants.

Contractors
(042)

This directive and handbook apply to and must be followed by all NRC contractors to whom they apply as a condition of a contract or a purchase order.

Handbook
(12.6-05)

Detailed guidelines for the preparation, distribution, accountability, and safeguarding of sensitive unclassified information are contained in Handbook 12.6.

**Scope of the NRC Sensitive
Unclassified Information
Security Program**
(12.6-06)

Pertinent laws, international agreements, regulations, NRC management directives, and directives of other Federal agencies and organizations affecting the protection of sensitive unclassified information have been incorporated into this directive and handbook.

Exceptions or Deviations
(12.6-07)

Exceptions to or deviations from this directive and handbook may be granted by SEC except in those areas in which the responsibility or authority is vested solely with the Commission, the EDO, or with ADM, and is nondelegable; or for matters specifically required by law, Executive order, or directive to be referred to other management officials.

References
(12.6-08)

1. NRC Management Directive 3.1, "Freedom of Information Act" (formerly MC 0211).
2. NRC Management Directive 3.2, "Privacy Act" (formerly MC 0204).
3. NRC Management Directive 5.5, "Public Affairs Program" (formerly MC 3101).

References

(12.6-08) (continued)

4. NRC Management Directive 12.1, "NRC Facility Security Program" (formerly MC 2101).
5. NRC Management Directive 12.2, "NRC Classified Information Security Program" (formerly MC 2101).
6. NRC Management Directive 12.3, "NRC Personnel Security Program" (formerly MC 2101).
7. NRC Management Directive 12.4, "NRC Telecommunications Systems Security Program" (formerly MC 2301).
8. NRC Management Directive 12.5, "NRC Automated Information Systems Security Program" (formerly MC 2301).
9. NUREG-0910, Rev. 2, "NRC Comprehensive Records Disposition Schedule" (March 1992).
10. NUREG/BR-0069, Rev. 2, "NRC Classification Guide for National Security Information Concerning Nuclear Materials and Facilities" (CG-NMF-2).
11. The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011, et seq.).
12. The Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801, et seq.).
13. "Freedom of Information," 5 U.S.C. 552.
14. "Privacy Act," 5 U.S.C. 552a.
15. "Rules of Practice for Domestic Licensing Proceedings," 10 CFR Part 2.
16. "Public Records," 10 CFR Part 9.
17. "Domestic Licensing of Production and Utilization Facilities," 10 CFR Part 50.
18. "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," 10 CFR Part 51.
19. "Domestic Licensing of Special Nuclear Material," 10 CFR Part 70.

References

(12.6-08) (continued)

20. "Packaging and Transportation of Radioactive Material," 10 CFR Part 71.
21. "Requirements for the Protection of Safeguards Information," 10 CFR 73.21.
22. "Identification and Protection of Unclassified Controlled Nuclear Information" (Department of Energy, General Provisions), 10 CFR Part 1017.

NRC Sensitive Unclassified Information Security Program

Handbook
(Formerly
Appendix 2101,
Part IV) **12.6**

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Part I

Introduction

Purpose and Scope (A)

This part sets forth requirements and procedures to ensure that sensitive unclassified information is adequately protected from unauthorized disclosure. (1)

“Sensitive unclassified information” is unclassified Safeguards Information (designated in this part as Safeguards Information), Official Use Only information, Proprietary Information, and Limited Official Use information. It also includes unclassified information from other Government agencies and sources outside of NRC, NRC contractors, and NRC licensees that requires special protective measures. Markings used by these agencies and sources include, for example, For Official Use Only, Company Confidential, and Private. (See Management Directive 12.4, “NRC Telecommunications Systems Security Program,” and Volume 12, “Glossary,” for a complete definition of “Sensitive Unclassified Information.”) (2)

The provisions of this part apply to information determined or verified by NRC to be Proprietary Information and information said to be Proprietary Information. The use of the words “sensitive unclassified information” or “Proprietary Information” includes both information determined or verified by NRC to be Proprietary Information and information said to be Proprietary Information. (3)

The specific types of information and documents that constitute Safeguards Information are specified in Exhibit 1. This list is intended to be all-inclusive. Exhibit 2 specifies types of information not subject to Safeguards Information controls. (4)

Applicability (B)

NRC employees, consultants, and contractors are responsible for ensuring that the procedures specified in this part are followed to protect sensitive unclassified information. The use of the word “contractor” in this part includes subcontractors.

Authority for Controls (C)

Authority (1)

The primary authorities for the protection of sensitive unclassified information are the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings," and 10 CFR Part 9, "Public Records." Safeguards Information is controlled in accordance with Section 147 of the Atomic Energy Act of 1954, as amended, and 10 CFR 73.21, "Requirements for the Protection of Safeguards Information."

Designation (2)

To designate information as sensitive unclassified, a determination must be made that one or more of the statutes and/or parts set forth in Section (C)(1) of this part apply. This designation signifies that the information must receive limited distribution and must be protected from unauthorized disclosure.

Authority To Designate Sensitive Unclassified Information (D)

Within NRC, section chiefs and above are authorized to designate information as Safeguards Information. Within contractor organizations, the NRC contracting office's authorized representative or the NRC Project Officer, when necessary, authorizes employees to perform this function. (1)

NRC section chiefs and above and personnel appointed by NRC contractors are authorized to designate information as Official Use Only, Proprietary Information, or Limited Official Use. Limited Official Use markings must be based on determinations made by the Department of State. (2)

Release of Information to the Public (E)

The presence of markings such as Safeguards Information, Official Use Only, Proprietary Information, Limited Official Use, or other similar markings, or the lack of markings does not determine whether a document may be withheld from the public. A review must be made of each sensitive unclassified document requested to determine whether the document is releasable. (See Management Directive 5.5, "Public Affairs Program" [formerly MC 3101].) (1)

Release of Information to the Public (E) (continued)

Whenever an office has a question regarding releasability, it may be appropriate to consult with (a) the Division of Freedom of Information and Publications Services (DFIPS), Office of Administration (ADM), if the Freedom of Information Act or the Privacy Act is involved; (b) the Office of Nuclear Material Safety and Safeguards on whether a document contains Safeguards Information; (c) the Office of the General Counsel on legal questions; (d) other responsible offices within NRC; or (e) the originator. (2)

The Department of State must be consulted on Limited Official Use documents or documents possibly containing Limited Official Use information before these documents are released to the public. Other Government agencies or other sources from which the information is derived should be consulted before documents bearing similar restrictive markings or containing sensitive unclassified information of primary interest to them are released to the public. (3)

When sensitive unclassified documents are requested under the Freedom of Information Act or the Privacy Act, the Freedom of Information and Local Public Document Room Branch, DFIPS, ADM, will (a) assist offices in determining if the documents fall within the scope of the request and (b) consult with other Federal agencies or other sources from which the information is derived regarding their documents or information in NRC files. (See Management Directives 3.2, "Privacy Act" (formerly MC 0204), and 3.1, "Freedom of Information Act" (formerly MC 0211). (4)

Part II

Protection and Control of Sensitive Unclassified Information

Information Originated by NRC, NRC Contractors, or NRC Licensees (A)

The procedures set forth in this section apply to Safeguards Information, Official Use Only information, and Proprietary Information.

Access (1)

General Rule (a)

NRC personnel and NRC contractor employees shall furnish sensitive unclassified information to only those persons who need the information for the conduct of official business. (i)

If doubt exists as to whether it is proper to furnish information in any particular case, NRC personnel and NRC contractor employees shall consult (1) the originating office, (2) the office that has primary interest in the information, or (3) the source from which the information was derived. (ii)

If Safeguards Information is involved, NRC personnel or NRC contractor employees shall consult the Office of Nuclear Material Safety and Safeguards. (a)

If Proprietary Information or Official Use Only information is involved, NRC personnel or NRC contractor employees shall consult (1) the NRC office originating the information, (2) the office that has primary interest in the information, or (3) the source from which the information was derived. (b)

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

Access (1) (continued)

If the Proprietary Information or Official Use Only information was originated by a contractor or a licensee, the originator or the NRC office administering the contract or license must be consulted. (c)

An access authorization (security clearance) is not required for access to Safeguards Information or other sensitive unclassified information. (iii)

Safeguards Information (b)

No person may have access to Safeguards Information unless the person needs the information to conduct official business and the person is—(i)

- An employee, agent, or contractor of an applicant for a license, of an NRC licensee, of the NRC, or of the United States Government (a)
- A member of a duly authorized committee of the Congress (b)
- The Governor of a State or his or her designated representative (c)
- A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC (d)
- A member of a State or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies (e)
- An individual to whom disclosure is ordered in accordance with Section 2.744(e) of Title 10, Part 2, *Code of Federal Regulations*, in connection with a domestic licensing proceeding. (f)

The office director or the regional administrator responsible for the document may authorize additional distribution of Safeguards Information related to activities conducted under the license. The individuals specified in the preceding list are normally considered

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

Access (1) (continued)

to be trustworthy in view of their employment status. However, some discretion should be used in granting access if there is any indication that the proposed recipient would be unwilling or unable to provide the protection prescribed for the Safeguards Information. (ii)

Marking (2)

When Information Is Marked (a)

General Rule. Documents (including drafts and worksheets) other than Official Use Only that contain sensitive unclassified information and require marking must be marked upon origination. (i)

Safeguards Information Documents. Documents (including drafts and worksheets) known to contain Safeguards Information that are not so marked must be marked accordingly by persons authorized to designate information as Safeguards Information. Documents dated before January 20, 1981, need not be marked until they are withdrawn from the files. Documents dated before January 20, 1982, and clearly marked as 10 CFR 2.790(d) to indicate that they contain Safeguards Information must be secured as Safeguards Information without the alteration of their marking until they are withdrawn from the files for any reason. When withdrawn, these documents must be marked in accordance with this part. (ii)

Official Use Only Documents. A document that contains Official Use Only information must be marked when the originator believes that marking is essential to ensure proper handling and to ensure that all persons having access to the record will be aware (1) that the document must not be publicly released and (2) that the document must be distributed only to those who have a need-to-know to conduct official business. (iii)

Proprietary Information Documents. Documents received by NRC or NRC contractors that contain or are said to contain Proprietary Information but that are not marked must be marked

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

Marking (2) (continued)

when marking is essential to ensure proper handling and to ensure that all persons having access to the information will be aware (1) that the information must not be publicly released and (2) that the information must be distributed only to those who have a need-to-know to conduct official business. (iv)

How Information Is Marked (b)

Safeguards Information (i)

At the time it is determined that a document contains Safeguards Information, originators shall place the following information on the face of the document:

- The name, title, organization, and signature of the individual authorized to make a Safeguards Information determination and who has determined that the document contains Safeguards Information (this information is placed in the lower right corner) (Exhibit 3). If the originator or approver of the document is the person authorized to make the determination and signs the document, that signature is sufficient (Exhibit 4). The signature in either case must appear on the original copy of the document. Other copies may have a facsimile signature or a typed name. (a)
- The date the document was originated. (b)
- The marking "SAFEGUARDS INFORMATION" conspicuously placed at the top and bottom of the page. (c)
- The marking "Violation of protection requirements for SAFEGUARDS INFORMATION subject to CIVIL and CRIMINAL penalties" in the lower left corner of the face of the document. (d)

Official Use Only (Exhibit 5) (ii)

Originators shall place the words "OFFICIAL USE ONLY" at the top and bottom of the page on the face of each document containing Official Use Only information when that marking is required to ensure proper handling. (a)

Information Originated by NRC, NRC Contractors, or NRC Licensees (A) (continued)

Marking (2) (continued)

The marking "LIMITED INTERNAL DISTRIBUTION PERMITTED" must be placed in the lower left corner of the face of the document. (b)

Proprietary Information (Exhibit 6). Originators shall place the words "PROPRIETARY INFORMATION" at the top and bottom of the page on the face of each document containing or said to contain Proprietary Information. (iii)

Multiple Page Documents. The SAFEGUARDS INFORMATION, OFFICIAL USE ONLY, or PROPRIETARY INFORMATION marking must be placed at the top and bottom of—(iv)

- The outside of the front and back covers, if any (a)
- The title page, if any (b)
- The first page of text, if there is no front cover or title page (c)
- The outside of the back page, if there is no back cover (d)
- Each page of a document containing sensitive unclassified information (e)

Portion-Marking. Portion-marking is accomplished by clearly indicating the portions (e.g., titles, paragraphs, subjects, or pages) that contain sensitive unclassified information by placing the appropriate abbreviation (e.g., SGI) in parentheses at the beginning or end of the portion. (c)

Sensitive Unclassified Information. Portion-marking is required for sensitive unclassified information when—(i)

- A document contains several categories of sensitive unclassified information. Portion-marking indicates which portions (e.g., paragraphs, pages, and appendices) contain each category, that is, Safeguards Information (SGI), Official Use Only information (OUO), or Proprietary Information (PROPIN). The highest category of information contained in the document (SGI or in the absence of SGI, PROPIN) will be the overall marking used (e.g., top and bottom). (a)

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

Marking (2) (continued)

- A document contains both classified and sensitive unclassified information. Portion-marking indicates which portions contain each category. Portions (e.g., paragraphs) that contain both sensitive unclassified information and classified information must be marked with the applicable classification markings only (see Part I, Section (B)(3)(g) of Handbook 12.2, "NRC Classified Information Security Program" [formerly MC 2101]). If a document is declassified and sensitive unclassified information remains, the document must be marked in accordance with the requirements stated in this part. (b)

Safeguards Information. In addition to the overall marking, portion-marking is required for Safeguards Information contained in—(ii)

- Correspondence to and from the NRC, NRC contractors, and NRC licensees (a)
- Licensee guard qualification and training plans (b)

Files or Folders. Files and folders containing sensitive unclassified information must be marked front and back with the appropriate category marking (e.g., SAFEGUARDS INFORMATION, OFFICIAL USE ONLY INFORMATION, or PROPRIETARY INFORMATION) upon creation or when extracted from an existing file system. (d)

Transmittal Documents. Documents (e.g., cover letters or memoranda) that do not in themselves contain sensitive unclassified information but are used to transmit one or more documents containing this information must be marked to indicate the fact that sensitive unclassified information is contained in the documents transmitted. The marking (SAFEGUARDS INFORMATION, OFFICIAL USE ONLY, or PROPRIETARY INFORMATION) indicating the category of information must be placed at the top and bottom of the first page of the transmittal document. Additionally, the following marking must be placed at the side or bottom of the transmittal document: (e)

Information Originated by NRC, NRC Contractors, or NRC Licensees (A) (continued)

Marking (2) (continued)

"Document transmitted herewith contains sensitive unclassified information. When separated from enclosures, this document is decontrolled."

Cover Sheet (3)

Each copy of a document containing Safeguards Information in the possession of NRC or NRC contractors must be covered by a Safeguards Information Cover Sheet (Exhibit 7). Documents containing or said to contain Proprietary Information must be covered by a Proprietary Information cover sheet (Exhibit 8), when necessary to prevent unauthorized access. Cover sheets are not required on Official Use Only documents, or on documents that are in the files.

Reproduction (4)

Authority To Reproduce Information. A minimum number of copies of documents containing or said to contain sensitive unclassified information may be reproduced by holders to meet operational requirements without permission of the originator or the responsible office. Care must be taken to prevent unauthorized access during reproduction and in the disposition of matter containing sensitive unclassified information (e.g., unneeded copies or improperly prepared copies.) (a)

Completion of NRC Forms 20 and 460. If reproduction of sensitive unclassified information is requested, NRC Form 20, "Request for Printing and Copying Services," or NRC Form 460, "Request for Graphics Services," should contain an explanation in the special instructions block that sensitive unclassified information is attached, and an asterisk should be placed in the "Unclassified" and "Other" blocks. This action must be taken to ensure proper handling of the document and proper disposal of any waste (see Section (A)(11) of this part). The requester shall ensure that the markings on documents submitted for reproduction are in black or red and dark enough to be reproduced. (b)

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

Transmission (5)

Methods Used (a)

Documents containing sensitive unclassified information must be transmitted by one of the following methods: (i)

- NRC messenger or NRC contractor authorized messenger or courier. NRC messengers and couriers shall be authorized to hand-carry sensitive unclassified information outside a facility by their division director or a higher level authority. NRC contractor personnel shall be authorized by the cognizant security office. (a)
- U.S. Postal Service First Class Mail (b)
- U.S. Postal Service Registered Mail (c)
- U.S. Postal Service Express Mail (d)
- U.S. Postal Service Certified Mail (e)
- NRC headquarters interoffice mail or NRC pouch mail between NRC headquarters and regional offices (f)
- Any individual authorized access to the category of information involved (g)
- Other means approved by the Director, Division of Security (SEC), ADM (h)

Individuals transporting documents containing Safeguards Information shall retain them in their possession at all times, unless they place the documents in the custody of another person authorized access to the information. (ii)

Individuals transporting documents containing other categories of sensitive unclassified information shall retain them in their possession to the maximum extent possible, unless they place the documents in the custody of another person authorized access to the information. Judgment must be used in handling these documents when retention is not feasible. (iii)

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

Transmission (5) (continued)

Preparation for Transmission (b)

General Rule (i)

Documents containing sensitive unclassified information must be addressed to an individual authorized access to that information. (a)

Material used for packaging must be opaque and of such strength and durability as to (1) provide secure protection for the document in transit, (2) prevent items from breaking out of the container, and (3) facilitate the detection of any tampering with the container. (b)

Safeguards Information (ii)

Documents containing Safeguards Information may be hand-carried or transmitted between NRC headquarters facilities by NRC interoffice mail, or between headquarters and regional offices by NRC pouch mail, in a single opaque envelope or wrapper. The envelope or wrapper must have the words "Safeguards Information" at the top and bottom on both sides and be addressed to the intended recipient, with a return address included. (a)

Whenever documents containing Safeguards Information are transmitted outside an NRC facility or an NRC contractor facility by other means or to other destinations, they must be enclosed in two opaque sealed envelopes or similar wrappings. The inner envelope or wrapper must show the address of the intended recipient and the sender on the front and have the words "Safeguards Information" at the top and bottom on both sides. The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and must not bear any markings or indication that the document contains sensitive unclassified information. (b)

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

Transmission (5) (continued)

Proprietary Information or Official Use Only Information. Documents containing Proprietary Information or Official Use Only information must be transmitted between NRC facilities and outside NRC facilities or NRC contractor facilities in a single opaque envelope or wrapper. The single opaque envelope or wrapper must not bear any markings or indication that the document contains Proprietary Information or Official Use Only information. Two opaque envelopes or wrappers may be used as described in Section (A)(5)(b)(ii) of this part when the sender believes it necessary to ensure proper handling and protection. (iii)

Receipts. Receipts are not required for sensitive unclassified documents. However, NRC Form 253, "NRC Messenger/Courier Receipt," (Exhibit 9) may be used if the sender wishes to ensure the delivery of the document. (c)

Telecommunications (6)

General Rule (a)

Utmost discretion must be used in the transmission of any sensitive unclassified information by electrical means. Mail channels are preferable. For further information, refer to Management Directive 12.4, "NRC Telecommunications Systems Security Program" (formerly MC 2301). (i)

Safeguards Information, Proprietary Information, and Official Use Only information must be encrypted if encryption is requested by the sender. NOTE: NRC 5520 communications are automatically encrypted and acceptable for transmission of sensitive unclassified information. (ii)

To request encryption for messages sent through communication centers, the sender shall place the letters "EFTO" (Encrypt For Transmission Only) on the message form between the address and the text of the message. Messages containing Safeguards Information, Official Use Only information, or Proprietary Information must contain the words "SAFEGUARDS INFORMATION," "OFFICIAL USE ONLY," or

Information Originated by NRC, NRC Contractors, or NRC Licensees (A) (continued)

Telecommunications (6) (continued)

"PROPRIETARY INFORMATION," as applicable, before the beginning of the text. (iii)

Safeguards Information (b)

Safeguards Information may be transmitted over protected telecommunications circuits approved by the Division of Security. Unprotected circuits may be used only under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communication in order to report, summon assistance for, or respond to a safeguards event or an event that has potential safeguards significance. (i)

Examples of these events include—(ii)

- Safeguards events that must be reported as specified in 10 CFR 73.71 (i.e., unaccounted-for shipments, suspected thefts, unlawful diversion or radiological sabotage, or events that significantly threaten or lessen the effectiveness of safeguards) (a)
- Schedule changes, delays, or equipment breakdowns associated with the transport of spent fuel or Category I strategic special nuclear material (b)
- Failure or loss of safety-related equipment identified in the physical security plan as being vital (c)

The restriction on telecommunications applies to telephone, telegraph, teletype, communicating word processors, facsimile circuits, and radio. (iii)

Automatic Data Processing (7)

Safeguards Information and other sensitive data (e.g., personal data, proprietary data, or data that has a high potential for financial loss) may be processed or produced on an automatic data processing (ADP) system, provided that the system meets the requirements of Management Directive 12.5.

Information Originated by NRC, NRC Contractors, or NRC Licensees (A) (continued)

Word Processing (8)

Safeguards Information and other sensitive data may be processed, stored, or produced on stand-alone personal computers or shared logic word processing systems, provided that the systems meet the criteria of Management Directive 12.5.

Protection of Information during Use (9)

While in use, documents containing sensitive unclassified information must be under the control of an individual authorized access to such information by the individual's division or office director or regional administrator in order to limit access to persons who have a "need-to-know." This requirement is satisfied in the case of Safeguards Information if the immediate space in which the documents are held is attended by an authorized individual even though the information is not constantly being used. In the case of Proprietary Information and Official Use Only information, this requirement is satisfied when the information is not constantly being used by those means that the office or division has determined will prevent unauthorized access. The Division of Security will aid in developing the most practical approach possible.

Storage (10)

Official Use Only and Proprietary Information (a)

Official Use Only and Proprietary Information stored in NRC space (headquarters and regional offices) that has electronic access control approved by SEC or NRC contract guards on duty requires no additional physical security measures, unless—

- Specific storage requirements have been published under a Privacy Act system of records (i)
- The holder deems additional protection (e.g., a locking cabinet) is necessary because of unusual circumstances or the sensitivity of the information (e.g., resident inspection sites). (ii)

Safeguards Information (b)

Safeguards Information must be stored in a locked security storage container when unattended or not in actual use. (i)

Information Originated by NRC, NRC Contractors, or NRC Licensees (A) (continued)

Storage (10) (continued)

As the term is used in this part, "security storage container" includes any of the following repositories: (ii)

- A steel filing cabinet equipped with a steel locking bar and a three-position changeable combination, GSA-approved padlock for storage in NRC headquarters and regional office buildings that have sufficient controls to prevent unrestricted access to the container. An NRC office that is occupied by employees during working hours and locked during nonworking hours (cleaning personnel may have keys, if necessary) would be considered to have sufficient access controls. This steel filing cabinet would not be considered adequate for a generally "public" area (e.g., a Public Document Room). (a)
- A security filing cabinet that bears a Test Certification Label on the side of the locking drawer, or on an interior plate, and that is marked as a "General Services Administration Approved Security Container." (b)
- A bank safe deposit box. (c)
- Other repositories that the Director, SEC, judges would provide adequate physical protection. (d)

Lock Combinations. The lock combinations protecting any category of sensitive unclassified information must be limited to a minimum number of persons who have a "need-to-know" for operating purposes and are otherwise authorized access to the category of sensitive unclassified information in accordance with the provisions of this part. Combinations must be changed (1) when placed in use, (2) whenever a person having access no longer has an official "need-to-know," or (3) at least once every year. (c)

Inspection of Out-of-Service Storage Repositories. Security storage containers, desks, and other storage repositories to be removed for repair or maintenance, returned to the supplier, or otherwise taken out of service for any reason must be examined to ensure that no classified or sensitive unclassified documents remain therein. (d)

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

Destruction (11)

General Rule. Holders of sensitive unclassified information documents are responsible for destroying these documents when they are no longer required. Records of destruction are not required. Documents containing sensitive unclassified information must be destroyed by a method that will prevent reconstruction of the information in whole or in part. (See NUREG-0910, "NRC Comprehensive Records Disposition Schedule.") (a)

Method of Destruction. Documents may be destroyed by tearing them into small pieces (i.e., several pages or documents torn into one-half inch pieces or smaller and thoroughly mixed), or by burning, pulping, pulverizing, shredding, or chemical decomposition. Within NRC headquarters, documents may be placed in receptacles designated for classified waste or receptacles approved by SEC for destruction of sensitive unclassified information. (b)

**Removal of Information From the Sensitive Unclassified
Category (12)**

Necessity for Review. Periodic review of documents containing sensitive unclassified information to determine whether these documents should remain in this category is not required. This review is necessary only when specific circumstances require such action. Typically, a request for the information under the Freedom of Information Act or the Privacy Act would necessitate a review of this type. (a)

**Who May Remove Information From the Sensitive Unclassified
Category (b)**

**Sensitive Unclassified Information Other Than Safeguards
Information. (i)**

The following individuals may remove markings from documents containing sensitive unclassified information (other than Safeguards Information) when these individuals determine that the information is no longer in the sensitive unclassified category: (a)

Information Originated by NRC, NRC Contractors, or NRC Licensees (A) (continued)

Removal of Information From the Sensitive Unclassified Category (12) (continued)

- The originator, whose name appears on the document (1)
- His or her successor (2)
- A supervisor of either (section chief or above) (see Section (A)(12)(d) of this part) (3)

These individuals must be notified if any other persons rename this information from the sensitive unclassified category. (b)

Safeguards Information (ii)

Any individual authorized to determine that a document contains Safeguards Information may remove the marking or indicate that it may be removed whenever the information is no longer in this category, provided that the following individuals are informed: (a)

- The individual whose name appears on the document (1)
- His or her successor (2)
- A supervisor of either (section chief or above) (3)

The procedure set forth in Section (A)(12)(d) of this part must be followed. (b)

Notification. The person authorizing removal of a document from the sensitive unclassified information category or authorizing a change in the category shall so advise, to the extent feasible, the recipients of the document, who in turn shall so advise any subsequent recipient. (c)

Marking (d)

When Information Is Marked (i)

The marking indicating a date or event for removal of the information from the sensitive unclassified category may be placed on documents upon origination or upon removal of the information from the sensitive unclassified category. The

**Information Originated by NRC,
NRC Contractors, or NRC
Licensees (A) (continued)**

**Removal of Information From the Sensitive Unclassified
Category (12) (continued)**

person taking the action shall place the following marking on the face of the document: (a)

Removed from sensitive unclassified information category (on) or (after) _____

(Signature of person making determination) (Title) (Office) (Date)

The date of cancellation of the marking or the event that will result in cancellation must be indicated. If a date or event is given, any possessor of the information may remove the sensitive unclassified information (SAFEGUARDS INFORMATION, OFFICIAL USE ONLY, or PROPRIETARY INFORMATION) marking after the date or event has occurred. The last line must be completed with the signature, title, and office of the person authorizing the action and the date of authorization. (b)

Change in Category. Documents must be marked to indicate a change of category, the person who is responsible for the change, and the date of the change. For example, if the document is removed from the Safeguards Information category but will still contain Official Use Only information, the Safeguards Information markings must be removed and the document marked "OFFICIAL USE ONLY" and "LIMITED INTERNAL DISTRIBUTION PERMITTED." (ii)

Removal of Markings (iii)

As a minimum, the sensitive unclassified information markings on the first page of text and on the outside of the front and back covers, if any, must be blacked out upon removal of a document from the sensitive unclassified information category or upon a change in the category. In the latter case, the new category must be inserted. If there are no covers, the marking must be blacked

Information Originated by NRC, NRC Contractors, or NRC Licensees (A) (continued)

Removal of Information From the Sensitive Unclassified Category (12) (continued)

out or changed on the title page. If there is no title page, the marking must be blacked out or changed on the first page of text and on the outside of the back page. (a)

Persons possessing copies of the document, except as stated below, who are advised that the marking is no longer required or that the marking is changed, shall **BLACKEN** out or change the sensitive unclassified information markings, as appropriate, on the copies in their possession and indicate on each copy the authority for deleting or changing the markings. (b)

Large file rooms and copy distribution centers possessing multiple copies are not required to black out or change the markings but will maintain the notification of removal or change as a record of the action taken. Copies transmitted outside these rooms or centers must be marked to indicate their content. (c)

Disagreement on Changes of Category. In any instance in which a disagreement exists as to whether a document should be removed from the Safeguards Information category, the matter must be referred to the Director, Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards, for final determination. In other instances of disagreement as to the removal of sensitive unclassified information from a category or a change in the category, the matter should be referred to one of the persons specified in Section (A)(12)(b)(i) of this part. (e)

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B)

General Rule (1)

Sensitive unclassified information, except Limited Official Use information, originated by sources other than NRC, NRC contractors,

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B) (continued)

General Rule (1) (continued)

or NRC licensees, must be protected and disseminated under the same security measures set forth in Section (A) of this part for sensitive unclassified information originated by NRC, NRC contractors, or NRC licensees. (a)

Documents originated by sources other than NRC, NRC contractors, or NRC licensees that are marked so as to indicate that they contain sensitive unclassified information (e.g., Company Confidential) must be marked with NRC standard markings to indicate the category of information (e.g., Proprietary Information) when the holder determines this marking is necessary for clarification. Holders shall contact the originators of documents in these cases to ensure documents are properly marked. (b)

Access (2)

If any doubt exists as to whether it is proper in any particular case to grant access to sensitive unclassified information originating outside NRC, NRC contractors, or NRC licensees, the originating party, or other appropriate person in the agency responsible for the information, or other source from which the information is derived, must be consulted.

Limited Official Use (3)

Limited Official Use information (i.e., information designated as such by the Department of State) must be handled in the following manner:

- **Authority to Designate Limited Official Use Information.** NRC section chiefs and above or personnel specified by NRC contractors shall designate information as Limited Official Use based on oral or written advice from the Department of State that the information requires such designation. A record must be maintained of the basis for the designation. (a)
- **Access.** Limited Official Use information must be furnished only to those persons who need the information to conduct official business. If doubt exists as to whether it is proper to furnish information in any particular case, appropriate personnel in the

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B) (continued)

Limited Official Use (3) (continued)

Department of State must be consulted. This includes a situation in which documents are subject to a request under the Freedom of Information Act or the Privacy Act. In this instance, the documents should be provided to the Division of Freedom of Information and Publications Services (DFIPS), Office of Administration. DFIPS will then consult the Department of State. (b)

- **Marking (Exhibit 10) (c)**

When Information Is Marked. Documents (including drafts and work sheets) that contain Limited Official Use information must be marked upon origination. If they are not marked at this time, they must be marked as soon as possible by holders when or as the documents are handled or withdrawn from the files. (i)

Face of Document. Marking requirements for Limited Official Use documents as specified below comply with revised State Department regulation: (ii)

- Documents originated by NRC or NRC contractors that contain Limited Official Use information must be marked "LIMITED OFFICIAL USE" upon origination. (a)
- Documents containing Limited Official Use information that may be decontrolled on a specific date or upon conclusion of an action or event sooner than 4 years after the date of origination must read: (b)

"Decontrol on _____"

- Documents containing Limited Official Use information that are exempt from automatic decontrol by statute should be marked as follows: (c)

"Exempt from Automatic Decontrol by Statute"

- In rare instances in which documents designated "Limited Official Use" are not exempt by statute or are not decontrolled by an earlier date or event and require protection for more than 4 years, the person designating a document "LIMITED OFFICIAL USE" shall mark it as follows:

**Information Originated by Sources
Other Than NRC, NRC Contractors,
or NRC Licensees (B) (continued)**

Limited Official Use (3) (continued)

“Exempt from Automatic Decontrol;
Authorized by _____”

Documents may be exempted from automatic decontrol with the approval of any official authorized to classify information. (d)

Where Information Is Marked (iii)

The Limited Official Use marking must be placed at the top and bottom of—(a)

- The outside of the front and back covers, if any. (1)
- The title page, if any. (2)
- The first page of text, if there is no front cover or title page. (3)
- The outside of the back page, if there is no back cover. (4)
- Each page of a document containing Limited Official Use information. (5)

Other markings specified in Section (B)(3)(c)(ii) of this part must be placed on the face of each Limited Official Use document. (b)

Portion-Marking. Portion-marking of Limited Official Use documents is not required except as stated in Section (A)(2)(c) of this part. In those instances, the words “LIMITED OFFICIAL USE” or the abbreviation “LOU” must be used. (iv)

Files or Folders. Files and folders containing Limited Official Use information must be marked accordingly on the front and back at the time of preparation. (v)

Transmittal Documents. Documents (e.g., cover letters or memoranda) that do not in themselves contain Limited Official Use information but are used to transmit one or more documents

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B) (continued)

Limited Official Use (3) (continued)

containing this information must be marked to indicate the fact that Limited Official Use information is contained in the document transmitted. The "LIMITED OFFICIAL USE" marking must be placed at the top and bottom of the first page of the transmittal document. Additionally, the following marking must be placed at the side or bottom of the transmittal document: (vi)

"Document transmitted herewith contains sensitive unclassified information. When separated from enclosures, this document is decontrolled."

Classified Documents Containing Limited Official Use Information. Originators of classified documents containing Limited Official Use information must mark these documents in accordance with the requirements of Part I of Handbook 12.2. Portion-marking must be used as set forth in Section (A)(2)(c) of this part, applying "LIMITED OFFICIAL USE" or "LOU" as the category of sensitive unclassified information involved. If a document is declassified and the Limited Official Use information remains, the document must be marked and handled in accordance with the requirements for the Limited Official Use information retained. (vii)

- **Cover Sheets.** Cover sheets are not required on Limited Official Use documents. (d)
- **Reproduction (e)**

Authority to Reproduce. A minimum number of copies of documents containing Limited Official Use information may be reproduced by holders to meet operational requirements without permission of the originator. Care must be taken to prevent unauthorized access during reproduction and in the disposition of matter containing Limited Official Use information (e.g., unneeded copies or improperly prepared copies). (i)

Completion of NRC Forms 20 and 460. If reproduction of Limited Official Use information is requested, NRC Form 20, "Request for Printing and Copying Services," or NRC Form 460, "Request for

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B) (continued)

Limited Official Use (3) (continued)

Graphics Services," should contain an explanation in the special instructions block as to the Limited Official Use nature of the material, with an asterisk in the "Unclassified" and "Other" blocks. This action must be taken to ensure proper handling of the document and proper disposal of any waste (see Section (B)(3)(1) of this part). The requester shall ensure that the markings on documents submitted for reproduction are in black or red and dark enough to be reproduced. (ii)

- **Transmission (f)**

- **Methods Used (i)**

- Documents containing Limited Official Use information must be transmitted by one of the following methods: (a)

- NRC messenger or NRC contractor authorized messenger or courier (see Section (A)(5)(a) of this part) (1)
 - U.S. Postal Service First Class Mail (2)
 - U.S. Postal Service Registered Mail (3)
 - U.S. Postal Service Express Mail (4)
 - U.S. Postal Service Certified Mail (5)
 - NRC headquarters interoffice mail or NRC pouch mail between NRC headquarters and regional offices (6)
 - Any individual authorized access to the category of information involved (7)
 - Other means approved by the Director, SEC (8)

- Individuals transporting documents shall retain them in their possession at all times, unless they place the documents in the custody of another person authorized access to the information. (b)

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B) (continued)

Limited Official Use (3) (continued)

Preparation for Transmission. Documents containing Limited Official Use information are to be prepared for transmission in the same manner as required for Safeguards Information (see Sections (A)(5)(b)(i) and (ii) of this part). (ii)

Receipts. Receipts are not required for Limited Official Use documents. However, NRC Form 253, "NRC Messenger/Courier Receipt" (Exhibit 9) may be used to transmit Limited Official Use information if the sender so desires. (iii)

- **Telecommunications.** Limited Official Use information that is to be transmitted by teletype or other electrical means must be encrypted by means approved by the Division of Security. The letters "EFTO" (Encrypt For Transmission Only) must be placed between the address and the text of the message. Messages containing Limited Official Use information must contain the words "LIMITED OFFICIAL USE" before the beginning of the text. Unless the document is automatically decontrolled 4 years after origination, a decontrol notation must be placed on the last line of the teletype (see Section (B)(3)(c)(ii) of this part). (g)
- **Automatic Data Processing.** Limited Official Use information may be processed or produced on an automatic data processing (ADP) system, provided that the system meets the criteria of Management Directive 12.4. (h)
- **Word Processing.** Limited Official Use information may be processed, stored, or produced on stand-alone personal computers, or on shared-logic word processing systems, provided that the systems meet the criteria of Management Directive 12.5. (i)
- **Protection of Information During Use.** While in use, documents containing Limited Official Use information must be under the control of an individual authorized access to such information by the individual's division or office director or regional administrator in order to limit access to persons who have a "need-to-know." This requirement is satisfied if the immediate space in which the documents are held is attended by an authorized individual even though the information is not constantly being used. (j)

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B) (continued)

Limited Official Use (3) (continued)

- **Storage (k)**

Requirement. As a minimum, Limited Official Use documents must be stored when unattended in a steel filing cabinet equipped with a steel locking bar and a three-position changeable combination padlock. (i)

Lock Combinations. The lock combinations protecting Limited Official Use information must be restricted to a minimum number of persons who have a "need-to-know" for operating purposes and are otherwise authorized access to the information in accordance with the provisions of this part. Combinations must be changed (1) when placed in use, (2) whenever a person having access no longer has an official "need-to-know," or (3) at least once every year. (ii)

Inspection of Out-of-Service Storage Repositories. Repositories to be removed for repair or maintenance, returned to the supplier, or otherwise taken out of service for any reason must be examined by the custodian to ensure that no classified, Limited Official Use, or other sensitive unclassified information documents remain therein. (iii)

- **Destruction.** Documents containing Limited Official Use information must be destroyed by a method that will prevent reconstruction of the information in whole or in part. Documents may be destroyed by tearing them into small pieces (i.e., several pages or documents torn into one-half inch pieces or smaller and thoroughly mixed), or by burning, pulping, pulverizing, shredding, or chemical decomposition. Within NRC headquarters, documents may be placed in receptacles designated for classified waste or receptacles approved by SEC for destruction of sensitive unclassified information. Holders of Limited Official Use information documents are responsible for destroying these documents when they are no longer required. Records of destruction are not required. (l)
- **Decontrol.** Unless exempt from public disclosure under the Freedom of Information Act or the Privacy Act, by a decontrol date marked on the document, or by other notation on the face of

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B) (continued)

Limited Official Use (3) (continued)

the document, a Limited Official Use document is automatically removed from that category and decontrolled 4 years from the date of the document. If a request is made under the Freedom of Information Act or the Privacy Act, the Division of Freedom of Information and Publications Services, ADM, will contact the Department of State to determine whether a Limited Official Use document may be removed from that category earlier than scheduled and released to the public. (m)

- **Removal of Information From the Limited Official Use Category (n)**

Necessity for Review. Periodic review of Limited Official Use documents to determine whether they should remain in this category is not required. This review is necessary only under special circumstances, such as a request under the Freedom of Information Act or the Privacy Act. (i)

Who May Remove Information From the Limited Official Use Category. The following individuals may remove the document from the Limited Official Use category either automatically as set forth in Section (B)(3)(m) of this part, or on the basis of advice in writing from the Department of State: (ii)

- The originator of the document that contains Limited Official Use information (a)
- His or her successor (b)
- The holder of a Limited Official Use document (c)

Notification. The person removing the document from the Limited Official Use category shall so advise, to the extent feasible, the recipients, who in turn shall so advise any subsequent recipients. (iii)

Marking. The person taking the action shall place on the face of the document the marking specified in Section (A)(12)(d)(i) of this part and, as a minimum, black out the "LIMITED OFFICIAL

Information Originated by Sources Other Than NRC, NRC Contractors, or NRC Licensees (B) (continued)

Limited Official Use (3) (continued)

USE" markings on the first page of text and on the outside of the front and back covers. If there are no covers, the "LIMITED OFFICIAL USE" markings must be blacked out on the title page. If there is no title page, the markings must be blacked out on the first page of text and on the outside of the back page. If a change of category is involved (e.g., from Limited Official Use to Official Use Only), the procedure set forth in Sections (A)(12)(d)(ii) and (iii) of this part must be followed. (iv)

Foreign Documents (4)

Documents that are received from foreign countries and that contain information submitted in confidence will be classified by an authorized classifier (see Part I of Handbook 12.2). If it is determined that these documents do not require classification, they must be marked and protected as Proprietary Information pursuant to 10 CFR 2.790(d) of the Commission's regulations. Many of these documents contain a marking that restricts their dissemination. The classification or Proprietary Information markings and other restrictive markings on the document must be placed on any reproduction or any document derived therefrom. Any proposed deviation from these procedures must be coordinated with the Office of International Programs. If a document is marked with foreign language restrictive markings, equivalent English markings must be placed on the document and any reproductions.

Unclassified Controlled Nuclear Information (5)

Documents received by the NRC that contain Unclassified Controlled Nuclear Information must be handled and protected in accordance with Section 148 of the Atomic Energy Act of 1954, as amended, and the Department of Energy regulation specified in 10 CFR Part 1017, "Identification and Protection of Unclassified Controlled Nuclear Information."

Hearings, Conferences, or Discussions (C)

Security Preparations Required for Hearings, Conferences, or Discussions (1)

NRC personnel, NRC consultants, NRC contractor personnel, and others (e.g., bidders) who arrange or participate in hearings, conferences, or discussions involving sensitive unclassified information shall—(a)

- Ensure before a hearing, conference, or discussion that participating personnel are identified and are authorized to have access to the information to be discussed. (i)
- Indicate to participating personnel that the specific data they will furnish is sensitive unclassified information and advise them of the category of the information (e.g., Safeguards Information, Official Use Only information, Proprietary Information, Limited Official Use information), together with any protective measures required. (ii)
- Ensure that no discussion takes place that is audible to persons not authorized access to the information. (iii)

Where Held (2)

With the exception of inspection exit interviews held at locations owned and controlled by NRC licensees, conferences involving sensitive unclassified information must be held within NRC guarded or controlled areas, if practical. Conferences may be held outside guarded or controlled areas only when the director of a headquarters office or a regional administrator determines that adequate protection can be provided such information.

Protective Orders (D)

Section 2.740(c) of 10 CFR Part 2 provides authority to presiding officers in proceedings subject to Part 2 (domestic licensing proceedings) to determine on motion that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way. This determination is contained in a protective order issued by the presiding officer that sets forth procedures necessary to protect the information.

Exhibit 1

Safeguards Information

The following items are subject to controls for Safeguards Information specified in Part II of this handbook.

Physical Protection at Fixed Sites (A)

Unclassified information relating to the protection of facilities that possess formula quantities of strategic special nuclear material and power reactors.¹ Specifically—

- The composite physical security plan for the nuclear facility or site. (1)
- Site-specific drawings, diagrams, sketches, or maps that substantially represent the final design features of the physical protection system. (2)
- Details of alarm system layouts showing location of intrusion detection devices, alarm assessment equipment, alarm system wiring, emergency power sources, and duress alarms. (3)
- Written physical security orders and procedures for members of the security organization, as well as duress codes and patrol schedules. (4)
- Details of the onsite and offsite communications systems that are used for security purposes. (5)
- Lock combinations and mechanical key design. (6)
- Documents and other material that contain lists or locations of certain safety-related equipment explicitly identified in the documents as vital for purposes of physical protection, as contained in physical security plans, safeguards contingency plans, or plant-specific safeguards analyses for production or utilization facilities. (7)
- The composite safeguards contingency plan for the facility or site. (8)
- Those portions of the facility guard qualifications and training plan that disclose features of the physical security system or response procedures. (9)
- Response plans to specific threats detailing size, disposition, response times, and armament of responding forces. (10)
- Size, armament, and disposition of onsite reserve forces. (11)
- Size, identity, armament, and arrival times of offsite forces committed to respond to safeguards emergencies. (12)

Exhibit 1
(continued)

Safeguards Information
(continued)

Physical Protection in Transit (B)

Unclassified information relating to the protection of shipments of formula quantities of strategic special nuclear material and spent fuel. Specifically—

- The composite transportation physical security plan. (1)
- Schedules and itineraries for specific shipments.² (2)
- Details of vehicle immobilization features, intrusion alarm devices, and communications systems. (3)
- Arrangements with and capabilities of local police response forces, and locations of safe havens. (4)
- Details regarding limitations of radio-telephone communications. (5)
- Procedures for response to safeguards emergencies. (6)

Inspections, Audits, and Evaluations (C)

Unclassified information relating to safeguards inspections and reports. Specifically—

Portions of safeguards inspection reports, evaluations, audits, or investigations that contain details of a licensee's or an applicant's physical security system or that disclose uncorrected defects, weaknesses, or vulnerabilities in the system.³

1. Most of the physical protection information for activities involving a formula quantity of unirradiated strategic special nuclear material would be National Security Information and classified in accordance with the NRC Classification Guide for National Security Information concerning Nuclear Materials and Facilities (CG-NMF-2).

2. Routes and quantities for shipments of spent fuel are not withheld from public disclosure. Schedules for spent fuel shipments may be released 10 days after the last shipment of a current series.

3. Information regarding defects, weaknesses, or vulnerabilities may be released after corrections have been made. Reports of investigations may be released after the investigation has been completed, unless withheld pursuant to other authorities, for example, the Freedom of Information Act (5 U.S.C. 552).

Exhibit 2

Information Not Subject to Safeguards Information Controls

Certain types of information, even though possibly regarded as Safeguards Information, are not subject to the provisions of Part II of this handbook on Safeguards Information. These items may require controls set forth in Part II for other categories of sensitive unclassified information.

Most notably, these items include studies, reports, and analyses conducted by or on behalf of the Commission, licensees, or applicants for licenses concerning the safeguarding of nuclear materials or facilities. Information specifically excluded from protection as Safeguards Information under Part II includes—

- Documents, drawings, or reports submitted by applicants or licensees, or produced by the staff, in response to the environmental and safety requirements contained in 10 CFR Parts 50, 51, 70, and 71. (1)
- Routes and quantities of spent fuel shipments. (2)
- Information concerning licensee control and accounting procedures, or inventory differences (not otherwise classified as National Security Information or Restricted Data) for special nuclear material, or source material and byproduct material. (3)
- Any information already in the public domain, including commercial safeguards equipment specifications, catalogues, and equipment buying data. (4)
- Portions of guard qualification and training plans that do not disclose facility safeguards features or response procedures. (5)

Exhibit 3

Safeguards Information Document Marking

SAFEGUARDS INFORMATION

ANALYSIS OF PHYSICAL SECURITY PLAN FOR CRYSTAL RIVER NUCLEAR POWER PLANT - FLORIDA

Violation of protection requirements for SAFEGUARDS INFORMATION subject to CIVIL and CRIMINAL penalties.

The determination that this document contains Safeguards information was made by

(Name) (Title) (Organization) (Date)

SAFEGUARDS INFORMATION

Exhibit 4

Safeguards Information Letter Marking

SAFEGUARDS INFORMATION

Violation of protection requirements for SAFEGUARDS INFORMATION subject to CIVIL and CRIMINAL penalties.

(No determination block is needed if document is signed by a Section Chief or above)

SAFEGUARDS INFORMATION

Exhibit 5

Official Use Only Marking

OFFICIAL USE ONLY

LIMITED INTERNAL DISTRIBUTION PERMITTED

OFFICIAL USE ONLY

Exhibit 6

**Proprietary Information Marking
PROPRIETARY INFORMATION**

PROPRIETARY INFORMATION

Exhibit 7

Safeguards Information Cover Sheet

SAFEGUARDS INFORMATION

THIS DOCUMENT CONTAINS INFORMATION THAT MUST BE PROTECTED FROM UNAUTHORIZED DISCLOSURE IN ACCORDANCE WITH NRC REGULATIONS, NRC MANAGEMENT DIRECTIVES AND HANDBOOKS 12.1, 12.3, 12.4, and 12.6; 10 CFR 73.21; AND SECTION 147, ATOMIC ENERGY ACT OF 1954, AS AMENDED, APPLY. VIOLATIONS ARE SUBJECT TO CIVIL OR CRIMINAL PENALTIES.

THIS DOCUMENT IS NOT TO BE LEFT UNATTENDED OR ACCESSIBLE TO UNAUTHORIZED PERSONS. WHEN NOT IN USE, THIS DOCUMENT MUST BE STORED IN A LOCKED SECURITY STORAGE CONTAINER.

IT IS YOUR RESPONSIBILITY TO PROTECT THE INFORMATION CONTAINED IN THIS DOCUMENT FROM COMPROMISE, THEFT, OR UNAUTHORIZED DISCLOSURE.

SAFEGUARDS INFORMATION

Exhibit 8

Proprietary Information Cover Sheet

PROPRIETARY INFORMATION

NOTICE

THE ATTACHED DOCUMENT CONTAINS OR IS SAID TO CONTAIN PROPRIETARY INFORMATION AND SHOULD BE HANDLED AS NRC SENSITIVE UNCLASSIFIED INFORMATION. THIS DOCUMENT SHOULD NOT BE DISCUSSED OR MADE AVAILABLE TO ANY PERSON NOT REQUIRING SUCH INFORMATION IN THE CONDUCT OF OFFICIAL BUSINESS AND SHOULD BE STORED, TRANSFERRED, AND DISPOSED OF BY EACH RECIPIENT IN A MANNER THAT WILL ENSURE THAT ITS CONTENTS ARE NOT MADE AVAILABLE TO UNAUTHORIZED PERSONS.

COPY NO. _____

DOCKET NO. _____

CONTROL NO. _____

REPORT NO. _____

REC'D W/LTR DTD. _____

PROPRIETARY INFORMATION

Exhibit 9

NRC Form 253, "NRC Messenger/Courier Receipt"

NRC FORM 253 (9-78) NRC 2531	U.S. NUCLEAR REGULATORY COMMISSION MESSENGER/COURIER RECEIPT	DATE SENT	CONTROL NO. 66732	
TO:	OFFICE SYMBOL	BUILDING	ROOM NO.	
FROM:	OFFICE SYMBOL	BUILDING	ROOM NO.	
UNCLASSIFIED DESCRIPTION	MESSENGER'S SIGNATURE		DATE	
	_____		_____	
	_____		_____	
SENDER: 1. Complete "DATE SENT," "TO," "FROM," and "UNCLASSIFIED DESCRIPTION" items. 2. Obtain MESSENGER/COURIER signature in this space provided. 3. Attach "RECIPIENT'S SIGNATURE COPY." RECIPIENT: 1. Obtain signature in presence of this messenger/courier in duplicate. 2. Attach returned copies outside of envelope. RECIPIENT: 1. Sign and date returned in "RECIPIENT'S SIGNATURE" and "DATE" items. 2. Attach "RECIPIENT'S COPY." 3. Return original to your messenger.	MESSENGER		DATE	
	_____		_____	
	RECIPIENT'S SIGNATURE		DATE	

RECIPIENT -- RETURN THIS COPY TO SENDER

Exhibit 10

Limited Official Use Marking

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

**APPENDIX M
INSTRUCTIONS TO MEMBERS
REGARDING ALLEGATIONS**

INSTRUCTIONS TO MEMBERS REGARDING ALLEGATIONS

[Text provided by the Agency Allegations Advisor. Management Directive 8.8, "Management of Allegations," has not yet been issued in final form. 1/18/96]

Allegations, which should be recognized as such by committee members, must be processed promptly and consistently in accordance with Management Directive 8.8, "Management of Allegations". Allegations within the jurisdiction of the NRC will be accepted irrespective of their being frivolous, general, or too vague to permit further followup.

Any committee member receiving an allegation must promptly notify and forward all relevant information to the appropriate allegation coordinator (OAC) in either NMSS, NRR, or one of the regions. Committee members receiving what appears to be an allegation should promptly inform an OAC, whether the allegor characterizes his or her concerns or remarks as an allegation.

The committee member shall forward to the OAC the letters and envelopes of all correspondence that appears to contain an allegation. The committee member must keep copies of this material until assured that the OAC has received the materials. Correspondence containing information that could reveal the identity of an allegor or confidential source should be transmitted in a sealed envelope marked "To Be Opened by Addressee Only." For expedited transmittals (e.g., electronic), the identity and other personal identifiers of the allegor should be deleted from the correspondence.

Contact with the allegor should be earnest and professional. The safety significance of an allegation should not affect the treatment of the allegor, although it may affect the timing of NRC's followup actions. The committee member should obtain as much information as possible from the allegor, including:

- Nature and details of the allegation
- The allegor's full name, position or relationship to the facility or activity involved, home mailing address (not business), telephone number
- The allegor's employer, the facility and activity involved
- Allegor's preference for method and time of contact (iv)

After obtaining as much information as possible, the allegor should be informed that there are limitations on the NRC's ability to protect their identity. If they would like more details concerning the limitations, they should contact one of the OAC's by calling the NRC's safety hotline, (800) 695-7403.

If the allegor requests a "confidentiality" prior to providing information, you must inform him/her that you are not authorized to grant confidentiality and he/she needs to contact an OAC by calling the safety hotline. If the allegor persists in not offering identification, document the allegation in as much detail as possible and advise the allegor that he or she may contact the NRC via the safety hotline in 30 working days or any other agreed-upon

period for information on the status of any actions being taken on the information supplied.

If the allegation involves discrimination under ERA Section 211, the allogger should be informed that (i) Section 211 affords remedies to an allogger when an employer is found to have discriminated against an employee for engaging in any protected activity, including contacting the NRC; (ii) he or she may have personal remedies through the DOL for any retaliatory or discriminatory practices by his or her employer, if filed timely, and the employer does not have another legitimate reason for the adverse action; (iii) an allogger must file a written complaint with the DOL within 180 days of the occurrence of the discriminatory act to ensure their personal employee rights are protected, (iv) complaints should be filed with the Office of Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, NW., Washington, DC 20210, or with the regional DOL office having jurisdiction over the matter.

EXHIBITS

		<u>PAGE</u>
A	ACRS Compensation Claim Worksheet	E-1
B	NRC Form 148 - Voucher for Professional Services .	E-2
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H	ACRS/ACNW Form - Use of ACRS/ACNW Consultants . . .	E-8

EXHIBIT A
ACRS COMPENSATION CLAIM WORKSHEET

EXHIBIT B
NRC FORM 148 – VOUCHER FOR PROFESSIONAL SERVICES

REF. # 41

VOUCHER FOR PROFESSIONAL SERVICES

INSTRUCTIONS

This form shall be completed by all NRC consultants for claiming compensation for official authorized personnel services. A signed original and two copies should be submitted to the NRC office authorizing the service.

TO: U.S. Nuclear Regulatory Commission		FROM: NAME OF CLAIMANT	
ATTENTION: NRC OFFICE AUTHORIZING THIS SERVICE		STREET ADDRESS	
		CITY	STATE ZIP CODE
CITY	STATE	ZIP CODE	SOCIAL SECURITY NUMBER

DESCRIPTION OF CLAIM
(All blocks must be completed)

CONTRACT:	NUMBER	DATE	AMOUNT CLAIMED	
PERIOD COVERED: (months)	FROM	TO	DOLLARS	CENTS
SERVICES PERFORMED: (Itemize on reverse)	NUMBER OF DAYS	PER DAY @ \$		
	NUMBER OF HOURS	PER HOUR @ \$		
RETIRED ANNUITANT:	YES	TOTAL AMOUNT CLAIMED		
	NO			

CERTIFICATION

I CERTIFY that the above account is just and true in all respects; that my statement of services correctly sets forth the services on official business; that the payment therefor has not been received; and that no compensation for any of the time shown above is payable from or will be claimed from any other source of the Federal Government or its cost reimbursable contractors.

SIGNATURE -- CLAIMANT

DATE OF CERTIFICATION

OFFICE OF THE CONTROLLER USE ONLY

DIFFERENCE

AMOUNT VERIFIED CORRECT

SIGNATURE

APPROVAL

I CERTIFY that the above claim is just; that the above services were officially requested and performed; and that the expenses claimed are authorized.

SIGNATURE -- APPROVING OFFICER

DATE APPROVED

EXHIBIT C
NRC FORM 445 – FOREIGN TRAVEL REQUEST FORM

ACRS SPECIAL TRAVEL ENDORSEMENT FORM

THIS FORM IS TO BE USED TO REQUEST ACRS ENDORSEMENT OF SPECIAL TRAVEL REQUESTS BY MEMBERS WHEN NRC SUPPORT FOR PARTIAL OR FULL REIMBURSEMENT OF EXPENSES AND/OR TIME IS DESIRED. THIS PROCEDURE IN NO WAY LIMITS THE FREEDOM OF A MEMBER TO PARTICIPATE IN A MEETING AS AN INDIVIDUAL AT PERSONAL EXPENSE. PLEASE SUBMIT THIS FORM TO THE PLANNING AND PROCEDURES SUBCOMMITTEE AT LEAST 60 DAYS PRIOR TO THE MEETING, IF POSSIBLE. SUPPLEMENTAL INFORMATION MAY BE ADDED AS DETAILS DEVELOP.

Member Name: _____ Date Submitted: _____

Dates of Planned Trip: _____ to _____

Destination: _____

Meeting or Facility to be Visited: _____

Purpose/Relevance to ACRS Business: _____

Participation (Invited Speaker, paper presented, etc.): _____

Justification (Foreign Travel Only): _____

NRC SUPPORT REQUESTED

Air Fare: Yes _____ No _____ Per Diem: Yes _____ No _____ Days _____
Registration: \$ _____ Compensation: Yes _____ No _____ Days _____

REQUEST FOR APPROVAL OF OFFICIAL FOREIGN TRAVEL

TO: OFFICE DIRECTOR OR REGIONAL ADMINISTRATOR (NAME)		FROM: BRANCH CHIEF (NAME)		
PROGRAM OFFICE		BRANCH		
ROOM NUMBER	BUILDING	ROOM NUMBER	BUILDING	TELEPHONE
A. TRAVEL DATES (To be completed by traveler)				
1. NAME OF TRAVELER (Print or Type - Last, first and middle initial)		2. DATE OF BIRTH	3. PLACE OF BIRTH	
		MM/DD/YY	CITY, STATE, COUNTRY	
SIGNATURE - TRAVELER		DATE		
4. HOME ADDRESS (Include Zip Code)		5. CITIZENSHIP		6. PASSPORT NUMBER (if available)
		7. Q CLEARANCE NUMBER <i>(If visit involves classified information, obtain clearance number from the Personnel Security Branch)</i>		DATE (MM/YY)
8. EMPLOYER		9. CONTRACT NUMBER (if applicable)		
10. BUSINESS ADDRESS (Include Zip Code)		11. ORGANIZATIONAL UNIT		
		12. POSITION TITLE (Include profession)		

13. PROPOSED ITINERARY If this information is CLASSIFIED, be sure to CLASSIFY THIS FORM appropriately.
(Account for all time from beginning through ending dates of travel)

DATES	LOCATION (Installation, City, Country)	INDIVIDUALS TO BE CONTACTED	SUBJECT OF DISCUSSION	"X" ONE	
				CLASSI- FIED	UNCLASSI- FIED

14. PURPOSE OF TRAVEL. If this information is CLASSIFIED, be sure to CLASSIFY THIS FORM appropriately.
(If more space is required, attach a separate sheet.)

In addition, specify nature and classification of information to be disclosed including titles of papers to be presented; nature of information to be obtained at each of the places to be visited and conferences to be attended and its relation to traveler's work. (TRAVELERS are RESPONSIBLE for OBTAINING CLEARANCES for papers or speeches when necessary.)

15. LIST PERSONS WITH WHOM PURPOSE OF TRAVEL HAS BEEN COORDINATED (Include intraoffice as well as other divisions and offices) AND THOSE TO BE BRIEFED OR RECEIVE TRIP REPORTS UPON RETURN. LIST ALL NRC TRAVELERS AND CONTRACTORS WHO PLAN TO ATTEND SAME FOREIGN MEETING OR PLAN TO GO TO SAME FOREIGN DESTINATION.

(a) PERSONS WITH WHOM TRAVEL HAS BEEN COORDINATED (within NRC and in other U.S. Government agencies)

(b) PERSONS TO BE BRIEFED OR RECEIVE TRIP REPORTS UPON RETURN.

(c) LIST OF OTHER NRC TRAVELERS AND CONTRACTORS GOING TO SAME FOREIGN MEETING OR DESTINATION.

B. ENDORSEMENTS AND RECOMMENDATIONS (To be completed by traveler's program officials)

17. TRAVELER'S SUPERVISOR

ENDORSEMENT AND REMARKS	SIGNATURE
	TITLE
	DATE

18. CONTRACT EMPLOYEES (To be completed by official responsible for supervising activities involved in proposed foreign travel or other official responsible for approving foreign travel under the terms of the contract)

ENDORSEMENT AND REMARKS	SIGNATURE
	TITLE
	DATE

19. OFFICE DIRECTOR OR REGIONAL ADMINISTRATOR

RECOMMENDATION AND/OR REMARKS	SIGNATURE
	TITLE
	DATE

C. ESTIMATED COST OF TRAVEL (To be completed by NRC travel office representative)

20. COST TO NRC		21. COST TO OTHER SOURCE <i>(To be completed if part of cost is to be or has been requested from source other than NRC)</i>	SIGNATURE
TRANSPORTATION	\$	SOURCE	TITLE
PER DIEM AND MISCELLANEOUS	\$		
TOTAL	\$	AMOUNT	DATE
		\$	

D. CONCURRENCES AND/OR REMARKS (To be completed at NRC Headquarters)

22. OFFICE OF INTERNATIONAL PROGRAMS

CONCURRENCES AND/OR REMARKS	SIGNATURE
	TITLE
	DATE

23. DIVISION OF SECURITY (Communist controlled countries or classified meetings) NOTE: Compliance with NRCMD 12.2

CONCURRENCE AND/OR REMARKS	SIGNATURE
	TITLE
	DATE

24. OTHER CLEARANCE

	SIGNATURE
	TITLE
	DATE

E. FINAL ACTION - OFFICE OF THE EXECUTIVE DIRECTOR FOR OPERATIONS OR CHAIRMAN

FOREIGN TRAVEL AT NRC EXPENSE, AS OUTLINED IN PART A, IS: ("X" one) <input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> APPROVED, SUBJECT TO REMARKS AND LIMITATIONS <input type="checkbox"/> DISAPPROVED	SIGNATURE
REMARKS AND/OR LIMITATIONS	TITLE
	DATE

REMARKS

PRIVACY ACT STATEMENT

Pursuant to 5 U.S. C. 552a(e)(3), enacted into law by Section 3 of the Privacy Act of 1974 (Public Law 93-570), the following statement is furnished to individuals who supply information to the U.S. Nuclear Regulatory Commission on NRC Form 445. This information is maintained in a system of records designated as NRC-20 and described at 55 *Federal Register* 33981 (August 20, 1990), or the most recent *Federal Register* publication of the U.S. Nuclear Regulatory Commission's "Republication of Systems of Records Notices" that is available at the NRC Public Document Room, Gelman Building, 2120 L Street NW, Washington, D.C.

1. **AUTHORITY:** 31 U.S.C. 1104, 1108, 3511, 716, 3512, 3701, 3711, 3717, 3718 (1988); 5 U.S.C. 5701 (1988); Federal Travel Regulations, 41 CFR Parts 301-304; and Federal Property Management Regulations, 41 CFR Part 101-71.
2. **PRINCIPAL PURPOSE:** Information entered on this form is used to secure the required NRC approval for official foreign travel.
3. **ROUTINE USES:** Information on this form may be used for transmittal to the U.S. Treasury for payment and for transmittal to the Department of State or an embassy for passports or visas. The information may also be disclosed to an appropriate Federal, State, local or Foreign agency in the event the information indicates a violation or potential violation of law and in the course of an administrative or judicial proceeding. In addition, this information may be transferred to an appropriate Federal, State, local and Foreign agency to the extent relevant and necessary for the agency's decision about you.

Information from this form may also be disclosed in the course of discovery and in presenting evidence, to an NRC contractor, or to a congressional office to respond to their inquiry made at your request.

4. **WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL OF NOT PROVIDING INFORMATION:** Disclosure is voluntary. If the requested information is not provided, however, approval may be denied.

5. **SYSTEM MANAGER AND ADDRESS:**

Chief, Travel Management Branch
Office of the Controller
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

EXHIBIT D
NRC FORM 64 - TRAVEL VOUCHER

NET-101

(12-93)
NRCMD 14.1
Exception to SF 1012
Approved by NARS 10-81

TRAVEL VOUCHER (PART 1)

FOLLOW INSTRUCTIONS ON REVERSE OF FORM SET

MAILING ADDRESS (Include ZIP Code)				4. OFFICE TELEPHONE		1. AUTHORIZATION NUMBER		2. SOCIAL SECURITY NUMBER	
				5. RECLAIM VOUCHER YES NO		6. VOUCHER STATUS PARTIAL FINAL			
9. OFFICIAL DUTY STATION (City and State)				10. RESIDENCE (City and State)		8. TRAVEL PERIOD(S) A. FROM (MM/DD/YY) B. TO (MM/DD/YY)			
11. TYPE OF TRAVEL CONUS/DOMESTIC NONFOREIGN OUTSIDE CONUS FOREIGN COS		12. METHOD OF PAYMENT CHECK CASH (NTE \$100) ELECTRONIC FUNDS TRANSFER		13. AIRLINE ACCOMMODATIONS FIRST CLASS OTHER PREMIUM CLASSES FREE UPGRADE NON-CONTRACT		14. LEAVE TAKEN ABSENT SICK OTHER		15. COMPARATIVE TRAVEL	
16. TRANSPORTATION METHOD OF PAYMENT GTR/TS ACCT/GOVT ISSUED CARD/CASH (Identify below)		17. CARRIER		18. TRANSPORTATION GTR OR TICKET NUMBER		19. AMOUNT		20. EXPENSES CLAIMED (FROM NRC FORM 64A OR NRC FORM 64B) EXPENSES AMOUNT CLAIMED	
21. TRAVELER'S CERTIFICATION. I HEREBY ASSIGN TO THE UNITED STATES ANY RIGHT I MAY HAVE AGAINST ANY PARTIES IN CONNECTION WITH REIMBURSABLE TRANSPORTATION CHARGES DESCRIBED ABOVE, PURCHASED UNDER CASH PAYMENT PROCEDURES.		TRAVELER'S INITIALS		23. READ CAREFULLY (If voucher includes any of the following, mark the appropriate boxes.) REFUND DUE ON UNUSED TICKET, PARTIAL TICKET, AND/OR REFUND SLIP (Explain in Part 2 and attach to front of voucher)		24. TRAVEL ADVANCE TOTAL ADVANCE RECEIVED (Traveler Must Complete)		C. PLANE, TRAIN, BUS (PAID BY TRAVELER)	
22. LODGING (List provided in Federal Travel Directory) HOTEL AND MOTEL FIRE SAFETY ACT OF 1990, P.L. 101-391		A. NUMBER OF NIGHTS LODGING		REMITTANCE ATTACHED IN THE AMOUNT OF \$		CHECK NO.		D. TOTAL CLAIM	
B. NUMBER OF NIGHTS LODGING WHICH THE FIRE SAFETY ACT		25. I CERTIFY THAT THIS VOUCHER IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT PAYMENT OR CREDIT HAS NOT BEEN RECEIVED BY ME.		SIGNATURE - TRAVELER *		DATE		FOR EXAMINER USE	
26. THIS VOUCHER IS APPROVED. LONG DISTANCE TELEPHONE CALLS, IF ANY, ARE CERTIFIED AS NECESSARY IN THE INTEREST OF THE GOVERNMENT.		SIGNATURE - APPROVING OFFICIAL **		DATE		AMOUNT TO BE APPLIED		BALANCE DUE	
28. TRAVELER DESIGNATION: I DESIGNATE _____ TO RECEIVE CASH PAYMENT OF THIS TRAVEL VOUCHER. I ACCEPT RESPONSIBILITY FOR THE PAYMENT ONCE THE IMPREST FUND CASHIER PROPERLY DISBURSES THE CASH TO MY DESIGNEE.		SIGNATURE - TRAVELER		DATE		NET TO TRAVELER		EXAMINER'S ADJUSTMENTS	
29. CASH PAYMENT OF TRAVEL VOUCHER (For Cashier Use)		RECEIVED CASH IN THE AMOUNT OF: \$		FOR		DATE		NRC BADGE NUMBER	
SIGNATURE		DATE		NRC BADGE NUMBER		DATE		THIS VOUCHER IS CERTIFIED CORRECT AND PROPER FOR PAYMENT	
SIGNATURE		DATE		NRC BADGE NUMBER		DATE		DATE	
31. ACCOUNTING CLASSIFICATION (For Division of Accounting and Finance Use)									
A. COST	B. PURPOSE CODE	C. BFY	D. COST ORGANIZATION CODE	E. JOB CODE	F. (2110-S) SUBSISTENCE AND OTHER	G. (2120-D) COMMON CARRIER	H. (2511-U) REGISTRATION FEE	I. TOTAL	
DOMESTIC									
FOREIGN									

* Fraudulent Claim - Falsification of an item in an expense account works a forfeiture of the Claim (28 U.S.C. 2514) and may result in a fine of not more than \$10,000 or imprisonment of not more than 5 years or both (18 U.S.C. 287, id. 1001)

** If long distance telephone calls are included, the Approving Official must have been authorized in writing by the head of the Department or Agency to so certify (31 U.S.C. 680a).

EXHIBIT E
FORMS FOR LEASED SPACE, CLERICAL ASSISTANCE,
AND PURCHASES

REQUEST FOR THE FOLLOWING ITEM(S)/SERVICE(S)

Please provide the following information:

<u>DESCRIPTION</u> (Please be specific)	<u>QUANTITY</u>	<u>UNIT OF ISSUE</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____

Cost for shipping and handling if required - - - - - \$ _____

TOTAL COST OF ALL ITEMS = \$ _____

NOTE: If the total cost will exceed \$2,500, please provide specifications for the item(s) requested or a Sole-source Justification for a specific item.

Member's name (Please print) _____ Date _____

Sufficient funds are available and the request is reasonable:

REQ#: ALLOTMENT: B&R NO: JOB CODE: BOC:

Carol A. Harris, Chief _____ Date _____
Operations Support Branch, ACRS/ACNW

John Larkins, Executive Director _____ Date _____
ACRS/ACNW (For FIP items)

_____ Authorized to purchase the item and obtain reimbursement with SF 1034:

Edward L. Halman, Director _____ Date _____
Division of Contracts

REQUEST FOR LEASE OR RENTAL OF COMMERCIAL OFFICE SPACE

Please provide the following information:

The minimum space size needed is _____ Square Feet (SF)

The acceptable delineated geographic area (i.e., street boundaries, radius from central location) is: _____

(IF A SPECIFIC LOCATION IS REQUESTED, ATTACH A THOROUGH JUSTIFICATION)

Special space requirements, i.e., lobby level is unacceptable, security needs, electrical power for special equipment, number of rooms, and appropriate size, etc.

Member's name (Please print)

Date

The request is reasonable:

Carol A. Harris, Chief
Operations Support Branch, ACRS/ACNW

Date

Approval of the requirement and request:

Edward L. Halman, Director
Division of Contracts

Date

REQUEST FOR CLERICAL ASSISTANCE

Please provide the following information:

Description of clerical assistance requested:

(Please be specific)

Estimated period needed: _____ weeks or _____ months or _____ ongoing

Estimated number of hours: _____ per week or _____ per month

Hourly rate: \$ _____ X _____ Estimated hours = TOTAL ESTIMATED COST \$ _____
(period/week/month)

Suggested Source:

Person to Provide Assistance

Telephone Number

Address

_____ I request that NRC contract directly for these services;
or

_____ I request authority to purchase these services and obtain reimbursement for
the expense using SF 1034.

Member's name (Please print)

Date

Sufficient funds are available and the request is reasonable:

REQ#:

ALLOTMENT:

B&R NO:

JOB CODE:

BOC:

Carol A. Harris, Chief
Operations Support Branch, ACRS/ACNW

Date

Authorized to purchase the services listed above and approval to use SF 1034 for
reimbursement:

Edward L. Halman, Director
Division of Contracts

Date

EXHIBIT F
SF 450 – EXECUTIVE BRANCH PERSONNEL
CONFIDENTIAL FINANCIAL DISCLOSURE REPORT

Executive Branch Personnel
CONFIDENTIAL FINANCIAL
DISCLOSURE REPORT

Instructions for Completing SF 450

A. Who Must File

Your agency will inform you if the position in which you serve or will serve has been designated as requiring confidential financial disclosure. Agencies are required to designate positions at or below GS-15, O-6, or comparable pay rates, in which the nature of duties may involve a potential conflict of interest. Examples include contracting, procurement, administration of grants and licenses, regulating/auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities, or law enforcement. Additionally, all special Government employees (SGE's) (those appointed pursuant to 18 U.S.C. 202(a) to serve no more than 130 days in a period of 365 days) must file, unless exempted or subject to the public reporting system. Agencies may also require certain employees in positions above GS-15, O-6, or a comparable pay rate to file.

B. Reporting Periods

New entrant reports: The reporting period is the preceding twelve months from the date of filing.

Annual reports: The reporting period is the preceding twelve months ending September 30 (or any portion thereof not covered by a new entrant report). However, no report is required if you performed the duties of your position for less than 61 days during that twelve-month period.

C. When to File

New entrant reports: Reports are due within 30 days of assuming a position designated for filing (including reappointment as a special Government employee (SGE)), unless your agency requests the report earlier. No report is required if you left another (different) filing position within 30 days prior to assuming the new position.

Annual reports: Reports are due not later than October 31, unless extended by your agency.

D. Where to File

With ethics officials at the agency in which you serve or will serve, in accordance with their procedures.

E. General Instructions

1. Confidential filers must provide sufficient information about their outside interests and activities, as well as those of their spouse and dependent children, so that an informed judgment can be made by agency ethics officials as to compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore, it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government. It provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities, and allows you and your agency to fashion appropriate protections against such conflicts.

2. This form consists of five parts, which require identification of certain specific financial interests and activities. No disclosure of amounts or values is required. You must complete each part (except as indicated for Part V) and sign the report. If you have no information to report in any part or do not meet the threshold values for reporting, check the "None" box. If you are a new entrant or special Government employee

(SGE), you are not required to complete Part V; in all other instances, a report is incomplete if any part is left blank.

3. The information to be disclosed on this form is required by regulation. You may include other information beyond these requirements that you wish to disclose for clarification. However, disclosure of any information does not authorize holdings, income, liabilities, affiliations, positions, gifts or reimbursements which are otherwise prohibited by law, Executive order, or regulation.

4. You can combine on one form the information applicable to yourself, your spouse, and dependent children which is required by Parts I, II, and V. (Parts III and IV require disclosures about yourself only.) You may, if you desire, distinguish any entry for a family member by preceding the entry with S if it is for a spouse or DC if it pertains to a dependent child. Joint assets may be indicated by J. Information about your spouse is not required in the case of marriage dissolution, permanent separation, or temporary separation with the intention of terminating the marriage or permanently separating.

5. In the case of references to trades or businesses which do not have publicly traded securities, you must provide sufficient information about these private entities to give the reviewers an adequate basis for conflict analysis. Thus, you must disclose the location and primary trade or business of private entities, as well as their separate financial interests and liabilities which are not solely incidental to the business. For instance, if your family swimming pool services corporation purchases an apartment house for investment in addition to its pool services business, you will have to disclose the apartment house investment, in addition to the family corporation.

6. In the case of a mutual fund, pension, IRA, or investment account you must disclose information about portfolio holdings and sources of income, unless the entity is "an excepted investment fund." See definition below. In that case, identify it by name and

indicate "excepted investment fund" in the appropriate block; no further disclosure is required.

7. In the case of a trust, you must disclose information about its underlying assets and sources of income, unless it is an "excepted trust." See definition below. In that case, identify it by name and date of creation, and indicate "excepted trust" in the appropriate block; no further disclosure is required. (Additionally, you may, in rare cases, have an interest in a trust specifically certified by the Office of Government Ethics to be a qualified blind or diversified trust, pursuant to statute; for such qualified trusts, you will also be exempt from disclosures about underlying holdings.)

8. If you need assistance in completing this form, contact the ethics officials of the agency in which you serve or will serve.

F. Definitions

o Dependent Child

The term "dependent child" means your son, daughter, stepson, or stepdaughter if such person is either:

- (1) unmarried, under age 21, and living in your household; or
- (2) a "dependent" of yours within the meaning of section 152 of the Internal Revenue Code of 1986, 26 U.S.C. 152.

o Excepted Investment Fund (EIF)

An "excepted investment fund" is a mutual fund, common trust fund of a bank, pension or deferred compensation plan, or any other investment fund, which is:

- (1) widely held;
- (2) either publicly traded (or available) or widely diversified*; and
- (3) you neither exercise control over nor have the ability to exercise control over the financial interests held by the fund.

*A fund is widely diversified when it holds no more than 5% of the value of its portfolio in the securities of any one issuer (other than the U.S. Government) and no more than 20% in any particular economic or geographic sector.

o Excepted Trust (ET)

An "excepted trust" is one which:

- (1) was not created by you, your spouse, or dependent children; and
- (2) the holdings or sources of income of which you, your spouse, and dependent children have no past or present knowledge.

o Honoraria

The term "honoraria" means payments (direct or indirect) of money or anything of value to you or your spouse for an appearance, speech or article, excluding necessary travel expenses. Also included are payments to charities in lieu of honoraria.

o Personal Savings Account

The term "personal savings account" includes a certificate of deposit, a money market account, a savings account, an interest-bearing checking account, or any other form of deposit in a bank, savings and loan association, credit union or similar financial institution. Additionally, any money market mutual fund holding is treated as the equivalent of a personal savings account.

Privacy Act Statement

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures

of the information on this report may be made: (1) to a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law.

Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other appropriate authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.

Public Burden Information

This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Associate Director for Administration, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; and to the Office of Management and Budget, Paperwork Reduction Project (3209-0006), Washington, DC 20503. Do not send your completed financial disclosure report to these addresses; it should be filed as indicated above in section D.

Executive Branch CONFIDENTIAL FINANCIAL DISCLOSURE REPORT

PARTS I - II

Employee's Name (Last, first, middle initial)		Position/Title	Grade	Date of Appointment	Page No.
Agency	Branch/Unit and Address		Work Phone	Check box if special Government employee (SGE) <input type="checkbox"/>	
I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge.			Signature of Employee	Date	Reporting Status: <input type="checkbox"/> New entrant <input type="checkbox"/> Annual
Date Received by Agency	On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (except as noted in "comments" box below).	Signature of Supervisor/Other Intermediate Reviewer	Printed Name/Title	Date	
Signature of Agency's Final Reviewing Official and Title		Date	Comments of Reviewing Officials		(Check box if continued on reverse) <input type="checkbox"/>

(Use additional copies of this form as continuation pages, if necessary, to complete any part.)

Part I: Assets and Income

None

Identify for you, your spouse, and dependent children: 1) each asset held for investment or the production of income which had a fair market value exceeding \$1,000 (\$5,000 for personal savings accounts) at the close of the reporting period; and 2) each asset or source of income (other than U.S. Government salary or retirement, including the Thrift Savings Plan) which generated over \$200 in income during the reporting period (\$1,000 for your spouse's earned income, other than honoraria). This includes but is not limited to employers, stocks, bonds, tax shelters, personal savings accounts, realty, mutual funds, pensions, annuities, IRA assets, trust assets, commodity futures, trades and businesses, partnership interests, and honoraria. Exclude your personal residence, unless you rent it out, and any earned income of your dependent children. If the holding is an excepted trust (ET) or an excepted investment fund (EIF) (see instructions), indicate that in the designated column, and you need not disclose underlying holdings.

Assets and Income Sources (Identify specific employer, business, stock, bond, mutual fund, financial institution, type/location of real estate, etc.)	(X) if no longer held	Nature of Income (Rent, interest, dividends, capital gains, salary, etc.)	If EIF or ET, so indicate	Date (Only for honoraria)
1				
2				
3				
4				
5				
6				
7				
8				

Part II: Liabilities

None

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period (over \$10,000 at the end of the period if revolving charge accounts) by you, your spouse, and dependent children. Exclude a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to a spouse, dependent child, or parent, brother, sister or child of you or your spouse.

Creditors (Name and address)	Type of Liability (Mortgage, promissory note, etc.)
1	
2	
3	
4	

Executive Branch CONFIDENTIAL FINANCIAL DISCLOSURE REPORT

PART III - END

Employee's Name (Last, first, middle initial)	Agency	Branch/Unit	Work Phone	Page No.
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Part III: Outside Positions

None

Report any positions, whether or not compensated, which you held outside the U.S. Government during the reporting period. Positions include but are not limited to those of an employee, officer, director, trustee, general partner, proprietor, representative, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature. You need not report any positions of your spouse or dependent children.

Organization (Name and address)	Type of Organization	Position	(X) if no longer held
1			
2			
3			
4			
5			

Part IV: Agreements and Arrangements

None

Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. You need not report agreements or arrangements of your spouse or dependent children.

Terms of Any Agreement or Arrangement	Parties	Date
1		
2		
3		
4		

Part V: Gifts and Travel Reimbursements

None

Do not complete this part if you are a new entrant or special Government employee (SGE).

Report the source and a brief description of gifts from one source totaling \$250 or more during the reporting period, and travel reimbursements from one source totaling \$250 or more during the reporting period, which are received by you, your spouse, and dependent children. Exclude anything valued at \$100 or less; anything from relatives or from the U.S. Government; anything given to your agency in connection with your official travel; and food, lodging, or entertainment received personally at the donor's residence.

Source	Description (For travel-related items, include itinerary and date)
1	
2	
3	
4	
5	
6	

Standard Form (SF) 450, "Confidential Financial
Disclosure Report"
Exhibit 2

Executive Branch Personnel
CONFIDENTIAL FINANCIAL
DISCLOSURE REPORT

Instructions for Completing SF 450

A. Who Must File

Your agency will inform you if the position in which you serve or will serve has been designated as requiring confidential financial disclosure. Agencies are required to designate positions at or below GS-15, O-6, or comparable pay rates, in which the nature of duties may involve a potential conflict of interest. Examples include contracting, procurement, administration of grants and licenses, regulating/auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities, or law enforcement. Additionally, all special Government employees (SGE's) (those appointed pursuant to 18 U.S.C. 202(a) to serve no more than 130 days in a period of 365 days) must file, unless exempted or subject to the public reporting system. Agencies may also require certain employees in positions above GS-15, O-6, or a comparable pay rate to file.

B. Reporting Periods

New entrant reports: The reporting period is the preceding twelve months from the date of filing.

Annual reports: The reporting period is the preceding twelve months ending September 30 (or any portion thereof not covered by a new entrant report). However, no report is required if you performed the duties of your position for less than 81 days during that twelve-month period.

C. When to File

New entrant reports: Reports are due within 30 days of assuming a position designated for filing (including reappointment as a special Government employee (SGE)), unless your agency requests the report earlier. No report is required if you left another (different) filing position within 30 days prior to assuming the new position.

Annual reports: Reports are due not later than October 31, unless extended by your agency.

D. Where to File

With ethics officials at the agency in which you serve or will serve, in accordance with their procedures.

E. General Instructions

1. Confidential filers must provide sufficient information about their outside interests and activities, as well as those of their spouse and dependent children, so that an informed judgment can be made by agency ethics officials as to compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore, it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government. It provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities, and allows you and your agency to fashion appropriate protections against such conflicts.

2. This form consists of five parts, which require identification of certain specific financial interests and activities. No disclosure of amounts or values is required. You must complete each part (except as indicated for Part V) and sign the report. If you have no information to report in any part or do not meet the threshold values for reporting, check the "None" box. If you are a new entrant or special Government employee

(SGE), you are not required to complete Part V; in all other instances, a report is incomplete if any part is left blank.

3. The information to be disclosed on this form is required by regulation. You may include other information beyond these requirements that you wish to disclose for clarification. However, disclosure of any information does not authorize holdings, income, liabilities, affiliations, positions, gifts or reimbursements which are otherwise prohibited by law, Executive order, or regulation.

4. You can combine on one form the information applicable to yourself, your spouse, and dependent children which is required by Parts I, II, and V. (Parts III and IV require disclosures about yourself only.) You may, if you desire, distinguish any entry for a family member by preceding the entry with S if it is for a spouse or DC if it pertains to a dependent child. Joint assets may be indicated by J. Information about your spouse is not required in the case of marriage dissolution, permanent separation, or temporary separation with the intention of terminating the marriage or permanently separating.

5. In the case of references to trades or businesses which do not have publicly traded securities, you must provide sufficient information about these private entities to give the reviewers an adequate basis for conflict analysis. Thus, you must disclose the location and primary trade or business of private entities, as well as their separate financial interests and liabilities which are not solely incidental to the business. For instance, if your family swimming pool services corporation purchases an apartment house for investment in addition to its pool services business, you will have to disclose the apartment house investment, in addition to the family corporation.

6. In the case of a mutual fund, pension, IRA, or investment account, you must disclose information about portfolio holdings and sources of income, unless the entity is "an excepted investment fund." See definition below. In that case, identify it by name and

Exhibit 2 (continued)

of the information on this report may be made: (1) to a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law.

Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other appropriate authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.

Public Burden Information

This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Associate Director for Administration, U.S. Office of Government Ethics, Suite 300, 1201 New York Avenue NW., Washington, DC 20005-3917; and to the Office of Management and Budget, Paperwork Reduction Project (3209-0006), Washington, DC 20503. Do not send your completed financial disclosure report to these addresses; it should be filed as indicated above in section D.

A fund is widely diversified when it holds no more than 5% of the value of its portfolio in the securities of any one issuer (other than the U.S. Government) and no more than 20% in any particular economic or geographic sector.

o Excepted Trust (ET)

An "excepted trust" is one which:

- (1) was not created by you, your spouse, or dependent children; and
- (2) the holdings or sources of income of which you, your spouse, and dependent children have no past or present knowledge.

o Honoraria

The term "honoraria" means payments (direct or indirect) of money or anything of value to you or your spouse for an appearance, speech or article, excluding necessary travel expenses. Also included are payments to charities in lieu of honoraria.

o Personal Savings Account

The term "personal savings account" includes a certificate of deposit, a money market account, a savings account, an interest-bearing checking account, or any other form of deposit in a bank, savings and loan association, credit union or similar financial institution. Additionally, any money market mutual fund holding is treated as the equivalent of a personal savings account.

Privacy Act Statement

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12874, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures

indicate "excepted investment fund" in the appropriate block; no further disclosure is required.

7. In the case of a trust, you must disclose information about its underlying assets and sources of income, unless it is an "excepted trust." See definition below. In that case, identify it by name and date of creation, and indicate "excepted trust" in the appropriate block; no further disclosure is required. (Additionally, you may, in rare cases, have an interest in a trust specifically certified by the Office of Government Ethics to be a qualified blind or diversified trust, pursuant to statute; for such qualified trusts, you will also be exempt from disclosures about underlying holdings.)

8. If you need assistance in completing this form, contact the ethics officials of the agency in which you serve or will serve.

o Dependent Child

The term "dependent child" means your son, daughter, stepson, or stepdaughter if such person is either:

- (1) unmarried, under age 21, and living in your household; or
- (2) a "dependent" of yours within the meaning of section 152 of the Internal Revenue Code of 1986, 26 U.S.C. 152.

o Excepted Investment Fund (EIF)

An "excepted investment fund" is a mutual fund, common trust fund of a bank, pension or deferred compensation plan, or any other investment fund, which is:

- (1) widely held;
- (2) either publicly traded (or available) or widely diversified; and
- (3) you neither exercise control over nor have the ability to exercise control over the financial interests held by the fund.

Exhibit 2 (continued)

Form Approved
OMB No. 3209-0006

Executive Branch Confidential Financial Disclosure Report
PARTS I - II

SP 450 (7/92)
5 CFR Part 2634, Subpart 1
U.S. Office of Government Ethics

Employee's Name Last, first, middle initial: _____ Position/Title: _____ Grade: _____ Date of Appointment: _____ Page No. _____

Agency: _____ Branch/Unit and Address: _____ Work Phone: _____ Signature of Employee: _____ Date: _____

I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge.

Date Received by Agency: _____ Signature of Supervisor/Other Intermediate Reviewer: _____ Printed Name/Title: _____ Date: _____

Signature of Agency's Final Reviewing Official and Title: _____ Date: _____ Comments of Reviewing Official: _____ (Check box if contributor on revenue)

(Use additional copies of this form as continuation pages, if necessary, to complete any part.)

Part I: Assets and Income

None

Identify for you, your spouse, and dependent children: 1) each asset held for investment or the production of income which had a fair market value exceeding \$1,000 (\$5,000 for personal savings accounts) at the close of the reporting period; and 2) each asset or source of income (other than U.S. Government salary or retirement, including the Thrift Savings Plan) which generated over \$200 in income during the reporting period (\$1,000 for your spouse's earned income, other than honoraria). This includes but is not limited to employers, stocks, bonds, tax shelters, personal savings accounts, real estate, mutual funds, pensions, annuities, IRA assets, trust assets, commodity futures, IRAs, and businesses, partnership interests, and honoraria. Exclude your personal residence, unless you rent it out, and any earned income of your dependent children. If the holding is an exempt trust (ET) or an exempt investment fund (EIF) (see instructions), indicate that in the designated column, and you need not disclose underlying holdings.

1	2	3	4	5	6	7	8
Assets and Income Sources (Identify specific employer, business, stock, bond, mutual fund, financial institution, type/location of real estate, etc.)	US if no longer held	Nature of Income (Rent, Interest, dividends, capital gains, salary, etc.)	If EIF or ET, so indicate	Date (Only for investment)			

Part II: Liabilities

None

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period (over \$10,000 at the end of the period if revolving charge accounts) by you, your spouse, and dependent children. Exclude a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to a spouse, dependent child, or parent, brother, sister or child of you or your spouse.

1	2	3	4
Creditor (Name and address)	Type of Liability (Mortgages, promissory note, etc.)		

NSN 7540 01 351 9173

490-102

Exhibit 2 (continued)

SP 450 (7/92)
 5 CFR Part 2634, Subpart I
 U.S. Office of Government Ethics

PART III - END

Executive Branch Confidential Financial Disclosure Report

Employee's Name Last, First, Middle Initial: _____ Agency: _____ Branch/Unit: _____ Work Phone: _____ Page No.: _____

Part III: Outside Positions None

Report any positions, whether or not compensated, which you held outside the U.S. Government during the reporting period. Positions include but are not limited to those of an employee, officer, director, trustee, general partner, proprietor, representative, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of a honorary nature. You need not report any positions of your spouse or dependent children.

1	2	3	4	5	6
Organization (Name and address)	Type of Organization	Position	Branch/Unit	Work Phone	Page No.

Part IV: Agreements and Arrangements None

Report your agreements or arrangements for future employment, leave of absence, contribution of payment by a former employer (including severance payments), or continuing participation in an employer benefit plan. You need not report agreements or arrangements of your spouse or dependent children.

1	2	3	4
Terms of Any Agreement or Arrangement	Parties	Date	

Part V: Gifts and Travel Reimbursements None

Do not complete this part if you are a new appointee or special Government employee (SOE).

Report the source and a brief description of gifts from one source totaling \$250 or more during the reporting period, and travel reimbursements from one source totaling \$250 or more during the reporting period, which are received by you, your spouse, and dependent children. Exclude anything valued at \$100 or less; anything from relatives or from the U.S. Government; anything given to your agency in connection with your official travel; and food, lodging, or entertainment received as personal hospitality at the donor's residence or premises.

1	2	3	4	5
Source	Description (For travel related items, include itinerary and days)			

EXHIBIT G
SF 278 – EXECUTIVE BRANCH PERSONNEL
PUBLIC FINANCIAL DISCLOSURE REPORT

Exhibit 1*

Standard Form (SF) 278, "Executive Branch Personnel
Public Financial Disclosure Report"

• Schedule C, Part I (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is less than 31 days before the date of filing.

• Schedule C, Part II (Agreements or Arrangements)—Show any agreements or arrangements as of the date of filing.

• Schedule D—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Scope of Disclosure

The extent of the reporting requirement is noted in each schedule. In addition to your individual financial information, you are required to report information concerning your spouse and dependent children in several schedules of the form. However, no report is required with respect to your spouse if he or she is living separate and apart from you with the intention of terminating the marriage or providing for permanent separation. In addition, no report is required with respect to any income or obligations of an individual arising from the dissolution of marriage or permanent separation from a spouse. There are other exceptions to the reporting of assets and income, transactions, and liabilities of a spouse or dependent child which are discussed in the instructions applicable to those subjects.

A basic premise of the statutory financial disclosure requirements is that those having responsibility for review of reports filed pursuant to the Act or permitted public access to reports must be given sufficient information by reporting individuals concerning the nature of their outside interests and activities so that an informed judgment can be made with respect to compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore, it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government, in that it provides a mechanism for determining actual or potential conflicts between

Management and Budget, Paperwork Reduction Project (8209-0001), Washington, D.C. 20503. Do not file financial disclosure reports at these addresses; submit them as indicated in "Where to File" on page 3.

Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a \$200 late filing fee. Such fee will be collected by the filer's agency, for deposit with the U.S. Treasury.

I. Introduction

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year, except Part II of Schedule C and Part I of Schedule D where you must also include any positions held and agreements or arrangements made from the beginning of the filing year until the date you file. Schedule B need not include transactions made, or gifts or reimbursements received, during a period when the filer was not a Federal employee.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination of Government employment.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D (candidates do not file Part II of Schedule D), as follows:

• Schedule A—The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is less than 31 days before the date of filing.

Executive Branch Personnel
PUBLIC FINANCIAL
DISCLOSURE REPORT

Instructions for Completing SF 278

Privacy Act Statement:

Title I of the Ethics in Government Act of 1978, as amended (the "Act"), 5 U.S.C. App. § 101 et seq., requires the reporting of this information. This information will be reviewed by Government officials to determine compliance with applicable Federal laws and regulations, and the report may be disclosed upon request to any requesting person pursuant to section 105 of the Act or as otherwise authorized by law. You may inspect applications for public access of your own form upon request. See also the OGE/GOVT-1 Privacy Act system of records. Knowing and willful falsification of information, or failure to file or report information required to be reported by section 102 of the Act may subject you to a civil penalty of not more than \$10,000 and to disciplinary action by your employing agency or other appropriate authority under section 104 of the Act. Knowing and willful falsification of information required to be filed by section 102 of the Act may also subject you to criminal prosecution and sentencing under 18 U.S.C. §§ 1001 and 3571.

Public Burden Information

This collection of information is estimated to take an average of three hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Administrative Services, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue, N.W., Washington, D.C. 20005-3917; and to the Office of

*This form is not available in NRC Supply Rooms. It may be obtained from OGC.

Exhibit 1 (continued)

your public responsibilities and your private interests and activities and allows you and your agency to fashion appropriate protections against such conflicts when they first appear.

A Presidential nominee to a position requiring the advice and consent of the Senate shall file with the Senate committee considering the nomination an amendment to the initial report, which shall update all items of earned income and honoraria through the period ending no earlier than 5 days before the scheduled date of the Senate committee hearing on the nomination. This update shall be provided in the manner requested by the Senate committee considering the nomination. Copies shall be provided to OGE and your agency ethics official.

Definition of Terms

o Category of Amount

Reportable financial interests are disclosed either by actual amount or by category of amount, depending on the interest, as specified by the form. You may, but you are not required to, indicate an actual amount where the form provides for a category of amount or value.

o Dependent Child

The term "dependent child" means your son, daughter, stepson, or stepdaughter if such person is either: (1) unmarried, under age 21, and living in your household, or (2) a "dependent" of yours within the meaning of section 152 of the Internal Revenue Code of 1986.

o Excepted Investment Fund

An excepted investment fund is a mutual fund, common trust fund of a bank, pension or deferred compensation plan, or any other investment fund, which is widely held; publicly traded (or available) or widely diversified; and under circumstances where you neither exercise control over nor have the ability

to exercise control over the financial interests held by the fund. A fund is widely diversified when it holds no more than 5% of the value of its portfolio in the securities of any one issuer (other than the U.S. Government) and no more than 20% in any particular economic or geographic sector.

o Gifts

See instructions for Schedule B, Part II.B.

o Honoraria

The term "honoraria" means payments of money or anything of value to you or your spouse for an appearance, speech, or article, excluding necessary travel expenses. See 5 CFR Part 2636.

o Personal Savings Account

The term "personal savings account" includes a certificate of deposit, a money market account, or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

o Relative

The term "relative" means an individual who is your father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, your spouse's grandfather or grandmother, or your fiancé or fiancée.

o Trusts ("Qualified" and "Excepted")

See instructions for Schedule A, Part II.B., and 5 CFR Part 2634, Subpart D

o Value

You may use any one of the methods described below, in determining fair market value:

Option 1- any good faith estimate of the value of the property if the exact value is unknown or not easily obtainable;

Option 2- value based upon a recent appraisal of the property interest;

Option 3- the purchase price of your property interest, or estimated retail price of a gift;

Option 4- the assessed value of the property for tax purposes, adjusted to reflect current market value if the tax assessment is computed at less than 100% of current value;

Option 5- the year-end book value of non-publicly traded stock, or the year-end exchange value of corporate stocks, or the face value of corporate bonds or comparable securities;

Option 6- the net worth of your interest (as in a business partnership or other jointly held business interest);

Option 7- the equity value of your interest (as in a solely owned business or commercial enterprise); or

Option 8- exact value (e.g., personal savings accounts) or any other recognized indication of value (such as last sale on a stock exchange).

II. Who Must File

a. Candidates for nomination or election to the office of President or Vice President.

b. Presidential nominees to positions requiring the advice and consent of the Senate, other than those nominated for judicial office or as a Foreign Service Officer or for appointment to a rank in the uniformed services at a pay grade of O-6 or below.

c. The following newly elected or appointed officials:

- o The President;
- o The Vice President;
- o Officers and employees (including special Government employees, as defined in 18 U.S.C. § 202) whose positions are classified at GS-16¹ or above of the General Schedule, or the rate of basic pay for which is fixed under other pay schedules at a rate equal to or greater than the minimum rate of basic pay fixed for GS-16¹;
- o Members of the uniformed services in pay grade O-7 or above;
- o Officers or employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to GS-16¹ or higher;
- o Administrative law judges;
- o Employees in the excepted service in positions which are of a confidential or policy-making character, unless by regulation their positions have been excluded by the Director of the Office of Government Ethics;
- o The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service and officers or employees of the U.S. Postal Service or Postal Rate Commission in positions for which the rate of basic pay is equal to or greater than the minimum rate of basic pay fixed for GS-16¹;
- o The Director of the Office of Government Ethics and each designated agency ethics official; and

o Civilian employees in the Executive Office of the President (other than special Government employees) who hold commissions of appointment from the President.

d. Incumbent officials holding positions referred to in section II.c. of these instructions if they have served 61 days or more in the position during the preceding calendar year.

e. Officials who have terminated employment after having served 61 days or more in a calendar year in a position referred to in section II.c and have not accepted another such position within 30 days thereafter.

III. When to File

a. Within 30 days after becoming a candidate for nomination or election to the office of President or Vice President, or by May 15 of that calendar year, whichever is later, but at least 30 days before the election, and on or before May 15 of each succeeding year an individual continues to be a candidate.

b. At any time after the President or President-elect has publicly announced an intention to nominate an individual referred to in section II.b. of these instructions, but no later than 5 days after the President transmits the nomination to the Senate.

c. Within 30 days after assuming a position described in section II.c. unless such an individual has left another such position within 30 days prior to assuming the new position, or has already filed a report with respect to nomination for the new position (section II.b.) or as a candidate for the position (section II.a.).

d. No later than May 15th annually, in the case of those in a position described in section II.d.

e. In the event an individual terminates employment and does not accept another position described in section II.c. within 30 days, the report must be filed no later than the 30th day after termination.

IV. Where to File

a. Candidates for President and Vice President, with the Federal Election Commission.

b. The President and Vice President, with the Office of Government Ethics.

c. Members of a uniformed service, with the Service Secretary concerned.

d. All others, with the designated agency ethics official, or that official's delegate, at the agency in which the individual serves, will serve or has served.

e. In the case of individuals nominated by or to be nominated by the President to positions requiring confirmation of the Senate, see 5 CFR Part 2634 for expedited procedures and filing location.

V. General Instructions

a. This form consists of the front page and four Schedules. You must complete each Part of all Schedules as required. If you have no information to report in any Part of a Schedule, you should indicate "None." If you are not required to complete Schedule B or Part II of Schedule D, you should mark it "Not Applicable." A report is considered incomplete if any Part of any Schedule is left blank. Schedule A combines a report of income items with the disclosure of certain property interests. Schedule B deals with transactions in

¹ Under the Federal Employees Pay Comparability Act of 1990, Public Law 101-509, General Schedule positions at GS-16, 17 and 18 will be replaced by a new range of rates for positions classified "above GS-15." The rate of basic pay for these positions will not be less than 120% of the minimum rate of basic pay payable for GS-15. When this provision of the Comparability Act takes effect at some point in 1991, this minimum rate for positions classified "above GS-15" will replace GS-16.

Exhibit 1 (continued)

Exhibit 1 (continued)

real property or certain other assets, as well as gifts and reimbursements. Schedules C and D relate to liabilities and employment relationships. After completing the first page and each Part of the Schedules (including extra sheets of any Schedule where continuation pages are required for any Part), consecutively number all pages.

b. The information to be disclosed is only that which the Ethics in Government Act of 1976, as amended, and 5 CFR Part 2634 specifically require. You may, however, include any additional information, beyond those requirements, that you wish to disclose for purposes of clarification. Disclosure of information does not authorize any holdings, income, honoraria, liabilities, transactions, gifts, reimbursements, affiliations or positions otherwise prohibited by law, Executive order, rule or regulation.

c. Combine on one form the information applicable to yourself, your spouse and dependent children; or if more convenient, use separate schedules to report the required information applicable to family members. You may, if you desire, distinguish any entry for a family member by preceding the entry with an (S) if it is for a spouse or a (DC) if it pertains to a dependent child. Joint assets may be indicated by a (J). See 5 CFR Part 2634, Subpart C, for exclusions in the case of separation or divorce.

d. Definitions of the various terms used in these instructions and detailed information as to what is required to be disclosed are contained in 5 CFR Part 2634.

e. In the case of references to entities which are operating trades or businesses which do not have listed securities, you must provide sufficient information about these private entities to give the reviewers of your disclosure report an adequate basis for the conflicts analysis required by the Act. Thus, you must disclose the location and primary trade or business of private entities, as well as attributed interests and activities not solely incidental to such a primary trade or business. For instance, if your

family swimming pool services corporation incurs a liability to purchase an apartment house for investment in addition to its pool services business, you will have to report the apartment house investment as part of the nature of the business of the family corporation.

f. In the case of references to entities which are investment funds such as mutual or pension funds (whether public or private), you must disclose the portfolio holdings and all other items such as transactions and liabilities to the extent otherwise required for reportable interests, unless the entity is an "excepted investment fund." See Definition of Terms above.

g. If you need assistance in completing this form, contact the designated agency ethics official of the agency in which you serve, will serve, or have served.

Schedule A

I. General Instructions

Two of the general disclosure requirements of the Act concern certain interests in property (generally referred to here as assets) and items of income. Schedule A is designed to enable you to meet both of these reporting requirements. Generally a description of your, your spouse's, or your dependent child's assets and sources of income is required to be listed in BLOCK A of the Schedule. Reading from left to right across the page from each description of the asset or income source, you will be able to report in BLOCK B the value of each asset, and in BLOCK C the type and amount of income generated by that asset or received from the non-asset source.

On Schedule A are four examples which are representative of the reporting scheme of this Schedule. The first example represents the proper method of reporting stock of Central Airlines Company held at the end of the reporting period which then had a

value of \$75,000. The individual had also received dividends of \$1,500, reported in BLOCK C. If the Central Airlines stock had been sold, there would be a check in the "None (or less than \$1,001)" column in BLOCK B if the individual no longer owned any of the stock at the end of the reporting period, and there would be an entry for capital gains as well as dividends in BLOCK C if they were realized during the period. The second example represents the proper method of reporting the source of \$130,000 of earned income from private law practice, as well as \$18,500 the reporting individual maintained in the capital account in the law firm at the end of the reporting period.

The third example represents acceptable reporting of an investment fund which is widely held, widely diversified (or publicly traded) and independently managed. Because it meets these requirements, no individual assets of the fund need to be reported, and the type of income does not need to be broken into dividends, interest, or capital gains as long as the column for "excepted investment fund" is marked. The fourth example reports a pension interest from which the filer has not yet received any payment.

Normally you will have to list an item only once in BLOCK A with all other value and income information associated with that item shown on the same line to the right. However, when you have a number of different kinds of financial arrangements and income involving one entity, a full disclosure of all the required information for that entity may require more than one line. You may always use more than one line for clarification if you choose.

II. Property Interests and Assets

(BLOCKS A and B)

A. Items to Report

Report the identity and category of valuation of any interest in property (real or personal) held by you, your spouse or a dependent child in a trade or

Exhibit 1 (continued)

security. For example, the entry for a holding of farm land might show, under BLOCK A... "sole ownership of 100 acres of unimproved dairy farm land on Rural Route #1 at Pine Bluff, Madison County, Wisconsin."

You must disclose the primary trade or business of non-public entities, as well as interests and activities not solely incidental to such a trade or business. For example, if your family is involved in a private real estate investment business but as a side interest buys stock through the business in a bank, you must disclose that in addition to real estate (by type and general location), the family business holds an interest in a bank.

For an IRA (Individual Retirement Account), indicate the value of each underlying asset, as well as the income derived therefrom (even though deferred for Federal tax purposes) in accordance with section IV below, to enable the reviewer to evaluate compliance with applicable laws and regulations. If the IRA were invested solely in a mutual fund such as "Templeton World Fund, Inc." and the investment properly disclosed in Schedule A, that would be sufficient identification of the asset, since for most reporting individuals that fund would be an "excepted investment fund." If, however, the IRA had an individual or privately managed portfolio, detailed disclosure of the portfolio would be required on Schedule A in the same amount of detail as if each investment were directly held.

With respect to trusts in which a vested beneficial interest in principal or income is held, report trust interests and trust assets which had a value in excess of \$1,000. See 5 CFR Part 2634 for more information about vested interests.

You need not report the identity of assets of a trust of which you, your spouse or dependent children are the beneficiaries if the interest is:

1. a "qualified blind trust" or "qualified diversified trust," which has been certified by the Office of

A personal residence held for investment or production of income, such as a summer home rented during parts of the year, must be reported.

Intermittent sales from personal property such as collections of antiques or art holdings demonstrate that the items are held for investment or the production of income and should therefore be reported.

B. What to Show on the Form

Enter the identity of the asset in BLOCK A and then show the value in BLOCK B. Only the category of value, rather than the actual value of the property interest or asset, must be shown. You need not disclose which valuation methods you used.

For assets such as stocks, bonds, and securities, report any holdings directly held or attributable to you, your spouse or dependent child from one source totaling more than \$1,000 in value. Identify the holding and show the category of value. If you hold different types of securities of the same corporation (e.g., bonds and stocks of "X" Corporation), these holdings should be considered as being from the same source for purposes of determining whether the aggregate value of the interest is below or above the \$1,000 threshold value. Report personal savings accounts only if they aggregate more than \$5,000 in a single financial institution.

If you have an interest in an investment fund or pool which is an "excepted investment fund" (see Definition of Terms above), you need only identify the interest by giving the complete name of the fund, rather than identifying the underlying assets as well.

To report interests of you, your spouse, or dependent child in a business, a partnership, or joint venture, or the ownership of property held for investment or the production of income, identify the character of the ownership interest, and the nature and location of the business or interest, unless it is a publicly traded

business, or for investment or the production of income which has a fair market value which exceeds \$1,000 as of the close of the reporting period. These interests include, but are not limited to, stocks, bonds, pension interests and annuities, futures contracts, mutual funds, IRA assets, tax shelters, beneficial interests in trusts, personal savings or other bank accounts, real estate, commercial crops, livestock, accounts or other funds receivable, and collectible items held for resale or investment. Exceptions: Exclude your personal residence (unless rented out) and any personal liability owed to you, your spouse or dependent child by a spouse or dependent child, or by a parent, brother, sister or child of you, your spouse, or dependent child. Exclude any retirement benefits (including the Thrift Savings Plan) from Federal Government employment and any social security benefits. Exclude also any deposits aggregating \$5,000 or less in personal savings accounts in a single financial institution.

With respect to assets of a spouse or a dependent child, do not report items:

- (1) which represent your spouse's or dependent child's sole financial interest or responsibility and of which you have no knowledge;
- (2) which are not in any way, past or present, derived from your income, assets, or activities; and
- (3) from which you neither derive, nor expect to derive, any financial or economic benefit.

Note: It is very difficult for most individuals to meet all three parts of this test, especially (3). For instance, if you file a joint tax return with your spouse, you derive a financial or economic benefit from the items involved and you are charged with knowledge of those items. A trust for the education of your minor child would also convey a financial benefit to you. Therefore, those asset and income items do not fit the test.

Exhibit 1 (continued)

BLOCK A... "Chicago Civic Club, 18 Lakeshore Dr., Chicago, IL"; in BLOCK C under OTHER (specify type) ... "Honorarium"; under ACTUAL AMOUNT... "\$1,100," and under DATE... "3/19/91." Honoraria received and donated to charity must be reported, but a notation explaining that fact may be included in reporting such items. The source, date and amount of payments made or to be made directly to a charitable organization in lieu of honoraria must also be disclosed. In addition, for certain payments in lieu of honoraria you must complete a confidential report for your agency, disclosing the source, the names of charitable organization recipients, the amount, and the dates of payments, if made on or after January 1, 1991. See 5 CFR Part 2636.

2. EARNED AND OTHER NON-INVESTMENT INCOME—Includes all income, exclusive of honoraria, from non-investment sources including fees, commissions, salaries, and income from personal services or retirement. Report the identity of the source and give the actual amount of such income exceeding \$200 from any one source. For example, if you earned \$450 teaching at a law school, enter in BLOCK A... "John Jones Law School, Rockville, MD"; in BLOCK C under OTHER... "Salary"; and under ACTUAL AMOUNT... "\$450." If you earned \$75 for teaching in one law school and \$250 from teaching at another school, report only the \$250 amount. Report employee benefits and severance payments which meet the reporting requirements separately from salary.

If your spouse has earned income in excess of \$1,000 (other than honoraria) from any one source, identify the source but show nothing under amount. If your spouse is self-employed in a business or profession, for example as a practicing psychologist who earned \$10,500 during the year, you need only show under BLOCK A... "practicing psychologist."

entered in BLOCK C as well as income from assets of the trust sold during the reporting period.)

III. Earned and Other Non-Investment Income

(BLOCKS A and C)

A. Items to Report

For yourself, report the identity of the source in BLOCK A and the type and actual amount in BLOCK C of non-investment income exceeding \$200 from any one source. Such income includes fees, salaries, commissions, compensation for personal services, retirement benefits, and honoraria. Report these items on the same line as related interests in property, if any.

For your spouse, report the source, but not the amount, of non-investment income exceeding \$1,000 and the source, amount and date of honoraria exceeding \$200 from any one source. No report of the earned or other non-investment income of your dependent children is required.

Exclude income from employment by the United States Government and from any retirement system of the United States (including the Thrift Savings Plan) or from social security.

B. What to Show on the Form

1. HONORARIA—For you or your spouse, show honoraria aggregating more than \$200 from any one source. Report the identity of the source in BLOCK A, and the date of the services performed and actual amount in BLOCK C. List each honorarium separately. For example, if, prior to your Government service, you received \$1,500 for a speech before the Chicago Civic Club on March 19, 1991 of which \$200 was actually spent for round-trip travel, and \$200 went to the agent who made the speaking arrangement, on your new entrant report you would enter in

Government Ethics, in accordance with 5 CFR Part 2634, Subpart D, or

2. an "excepted trust," that is, one which:

A. was not created by you or your spouse or dependent children, and

B. has holdings or sources of income of which you, your spouse and dependent children have no knowledge.

In the case of these special types of trusts, you should show in BLOCK A the identity of the trust, including the date of creation, and in BLOCK C, the classification of the trust as a "qualified trust" or an "excepted trust." (The category of amount of the trust income, if it exceeded \$200, must also be reported in BLOCK C, in accordance with section IV below.)

Note: You are not permitted by the statute to "create" an excepted trust by instructing a trustee not to divulge information or otherwise avoiding previous sources of knowledge upon entering Government service.

Do not report a trust of which your spouse or dependent child is a beneficiary that meets the three part test set forth in the second paragraph under II.A. A trust that does not fit that exception may still be an excepted trust under this section; in such case, it must be reported, but the assets need not be identified.

Except for the special trusts or funds referred to above, you must identify each individual investment held by a trust or fund, which had a value in excess of \$1,000. For example, in BLOCK A an entry such as "trust held by First National Bank (Boston, MA) consisting of ITT stock, U.S Treasury certificates, and Dallas Municipal Bonds" might be made. In BLOCK B the applicable value of each trust asset would be entered. (As described under IV.B.6. Trust Income, below, the income from each asset would be

Exhibit 1 (continued)

IV. Investment Income

(BLOCKS A and C)

Report items of investment income on the same line of Schedule A as the related property interest or other asset from which such income is derived. Note that some property interests or other assets will not have a related item of income. In such a case, check "None (or less than \$201)" in BLOCK C under category of amount.

A. Items to Report

Report the identity in BLOCK A and the type and value in BLOCK C of any investment income over \$200 from any one source received by or accrued to the benefit of you, your spouse or dependent child during the reporting period. For purposes of determining whether you meet the over \$200 threshold from any one source, you must aggregate all types of investment income from that same source. For your spouse or dependent child such income is only required to be reported if the asset source meets the reporting threshold in section II above.

Investment income includes, but is not limited to: income derived from dealings in property, interest, rents, royalties, dividends, capital gains; income from annuities, the investment portion of life insurance contracts, or endowment contracts; your distributive share of partnership or joint venture income, gross business income, and income from an interest in an estate or trust. You need not show the actual dollar amount of dividends, rents and royalties, interest, capital gains, or income from qualified trusts, excepted trusts, or excepted investment funds. For these specific types of income, you need only check the category of amount of the item reported. For all "other investment income" as described in item 7 below, you will have to report the actual dollar amount of income from each source, and indicate the type in the space marked "Other (specify type)" in BLOCK C.

B. What to Show on the Form

Check all applicable classifications of income and corresponding categories of amounts. If more than one type of income is derived from the same asset, check all relevant types and categories of amount (unless an excepted investment fund). Categories of amount may be distinguished by using the abbreviations D,R,I and CG in the boxes, in lieu of checks, to represent dividends, rents/royalties, interest or capital gains.

1. **DIVIDENDS**—Show in BLOCK C the amount you, your spouse or dependent child accrued or received as dividends from investment sources including common and preferred securities and underlying assets of pension and mutual funds (unless an excepted investment fund). Identify the source of such income and check the category of amount. For example, if cash dividends of \$950 were received for shares of common stock of IBM, enter in BLOCK A... "IBM common" and in BLOCK C check that dividend income was received and check the appropriate category of amount.

2. **RENTS AND ROYALTIES**—Show income accrued or received by you, your spouse or dependent child as rental or lease payments for occupancy or use of personal or real property in which any one of you has an interest. In addition, show payments accrued or received from such interests as copyrights, royalties, inventions, patents, and mineral leases or other interests. Identify the source of such income and check the category of amount. For example, if you received \$2,000 as rental income from an apartment building in Miami, Florida, enter in BLOCK A... "apartment building at 6802 Biscayne Blvd., Miami, FL," and in BLOCK C check that rental income was received and check the appropriate category of amount.

3. **INTEREST**—Identify the source and the category of amount of any interest accrued or received by you, your spouse or dependent child as income from investment holdings including bills

and notes, loans, personal savings accounts, annuity funds, bonds, and other securities. For example, if you earned \$300 in interest during the calendar year on a Savings Certificate with Federal Savings and Loan, enter in BLOCK A... "Federal Savings and Loan (Baltimore, MD) Savings Certificate," and in BLOCK C check that interest income was received and check the appropriate category of amount.

4. **CAPITAL GAINS**—Report income from capital gains realized by you, your spouse or dependent child from sales or exchanges of property, business interests, partnership interests or securities. Identify the source and check the category of amount of the gain. An example of an entry in BLOCK A might be "sale of one-third interest in 100-acre farm in Hamilton County, Iowa" and in BLOCK C check that capital gains were received and check the appropriate category of amount.

5. **INVESTMENT FUND INCOME**—Identify the fund and the category of amount and the type(s) of income from investment funds such as mutual or pension funds for you, your spouse or dependent child. This may include dividends, capital gains and interest for a single fund (unless an excepted investment fund). Income from each individual asset of the fund must also be listed, unless it is an excepted investment fund. See Definition of Terms above for discussion of excepted investment funds.

6. **TRUST INCOME**—Report the category of amount and the type of income accrued or received from any trust. Whenever you are required to identify the source of trust income, either for yourself or for a spouse or dependent child, it is not enough simply to say "John Jones Trust." Generally, the investment holdings of the trust, discussed above under "Property Interests and Assets," and the income derived from each holding must be identified to the same extent as if held directly. However, if the trust is a qualified trust or an excepted trust, in BLOCK A show only the identity of the trust including the date of creation, in BLOCK C check the classification of the trust interest as a "qualified

Exhibit 1 (continued)

trust" or "excepted trust," and also in BLOCK C show the category of amount of income attributable to you, your spouse, or dependent child.

7. OTHER INVESTMENT INCOME—Report any other items of investment income exceeding \$200 and not described above, along with the specific type and actual amount, such as gross income from business interests, endowment or annuity contract payments, estate income, a distributive share of a partnership or joint business venture income. To identify the sources of other investment income, either for you, your spouse, or a dependent child, briefly characterize in BLOCK A the nature of the business or investment interest and, when applicable, the location: for example, "one-third ownership in a retail furniture store at 1010 Grand Ave., Chicago, IL." In BLOCK C under OTHER, specify the applicable type of income, for example, "distributive share" from a partnership or "gross income" from a proprietorship, and under ACTUAL AMOUNT the actual amount of such income which was received during the reporting period. Where the asset is listed because of a value of greater than \$1,000 in BLOCK B, but it does not produce more than \$200 in income for the reporting period, check "None (or less than \$201)" instead of listing the actual amount.

Schedule B

i. Part I—Transactions

A. General Instructions and Items to Report

This part is to be completed by incumbents and termination filers only. Give a description, the date, and the category of amount of any purchase, sale, or exchange of any real property, stocks, bonds, commodity futures, excepted investment fund shares, and other securities by you, your spouse or dependent child when the amount involved in the transaction exceeded \$1,000. Also, indicate whether sales were made pursuant to a certificate of divesti-

ture previously issued by OGE to permit delayed recognition of capital gain. (For more information on certificates of divestiture, see 5 CFR Part 2634, Subpart J.) This includes reporting any sale or exchange of an asset involving an amount exceeding \$1,000 when the sold or exchanged asset did not yield income of more than \$200 (and therefore was not reported on Schedule A), or reporting the purchase of an asset involving an amount exceeding \$1,000 but at the end of the reporting period having a value of \$1,000 or less and earning income of \$200 or less during the reporting period (and therefore not appearing on Schedule A). The example on the form shows the proper way to disclose Central Airlines common stock the reporting individual purchased for \$76,000 on 2/1/91. Note that on Schedule A there is an entry for the stock as well since it was still held at the end of the reporting period.

You need not report a transaction involving (1) your personal residence (unless rented out); (2) a money market account or personal savings account; (3) an asset of your spouse or dependent child if the asset meets the three-part test set forth under the instructions for Schedule A, at II.A.; (4) a holding of a "qualified blind trust," a "qualified diversified trust," or an "excepted trust"; (5) U.S. Treasury bills, notes, and bonds; (6) transactions which occurred prior to your Federal Government employment; or (7) transactions solely by and between the reporting individual, spouse, or dependent child.

You will need to report any transactions of a non-public business or commercial enterprise, investment pool, or other entity in which you, your spouse or dependent child have a direct proprietary, general partnership or other interest unless (1) the entity is an "excepted investment fund," or (2) the transaction is incidental to the primary trade or business of the entity as indicated by you on Schedule A. (See also sections V.e. and f. of the General Instructions preceding those for Schedule A.)

B. What to Show on the Form

Under identification of assets, identify the property or securities involved in the purchase, sale or exchange, and give the date of the transaction. For example, under IDENTIFICATION OF ASSETS... "GMC common stock"; under TYPE OF TRANSACTION... check type; under DATE... enter date transaction occurred; under AMOUNT OF TRANSACTION... check the category of value of the sale price, purchase price, or exchange value of the property involved in the transaction. You must also indicate whether an item was sold pursuant to a certificate of divestiture issued by the Office of Government Ethics under 5 CFR Part 2634, Subpart J, to permit delayed recognition of capital gain.

Where multiple transactions have occurred which involve the same asset, you may list the item once, check purchase and/or sale, and indicate... "biweekly," "throughout year," or other appropriate frequency, and the aggregate amount of the sales and purchases. Reporting an exchange generally requires reporting two items since one item is exchanged for another.

II. Part II— Gifts, Reimbursements, and Travel Expenses

A. General Instructions

This Part is to be completed by incumbents and termination filers only. The Act requires you to disclose the receipt of certain gifts, in-kind travel expenses, and cash reimbursements by you, your spouse, or dependent child from any one source other than the U.S. Government. This reporting requirement applies to gifts and reimbursements received by your spouse or dependent child to the extent the gift was not given to him or her totally independent of the relationship to you.

Exhibit 1 (continued)

the calendar year. Thus, if you and your spouse each receive an \$80 figurine from the same donor (source), the gifts have a value of more than \$100 and must be reported. To report a gift, identify the source, briefly describe the item(s), and show the value. In the case of the figurines, report on the form under SOURCE... "Artifact Co., 153 Utah St., Omaha, NE"; and under BRIEF DESCRIPTION... "two porcelain figurines". Under VALUE... "\$160" would be shown.

3. REIMBURSEMENTS—Report the source, a brief description (including a travel itinerary, dates, and the nature of expenses provided), and the value of any cash reimbursements (except those from the United States Government or otherwise excluded) aggregating \$250 or more which you or your spouse or dependent child received from any one source. For example, if you were reimbursed \$400 for travel and lodging expenses in connection with a speech you made for the Denver Realtors Association, you would report this item on the form by showing under SOURCE... "Denver Realtors Assoc., 45 Bridge St., Denver, CO"; under BRIEF DESCRIPTION... "travel expenses for speech made in Denver: United Airlines round trip from Washington, D.C. 1/22-23/91, \$275; Denver Airport Marriott, \$125"; and under VALUE... "\$400" would be shown. If your spouse made this speech and received the reimbursement totally independent of his or her relationship to you, no information for this item need be reported.

Note: If you receive food, transportation, lodging, and entertainment or a reimbursement of official travel expenses from a non-profit tax-exempt institution categorized by the IRS as one falling within the terms of 26 U.S.C. § 501(c)(3), you must report the name of the organization, a brief description of the in-kind services or the reimbursement and the value. If known, you may also wish to note the date you received the required written approval from your agency to accept such items. See 5 U.S.C. § 4111 and 5 CFR Part 410, Subpart G.

10. Gifts and reimbursements received during non-Federal employment periods; and

11. Reimbursements you received for political trips which were required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. § 434).

C. What to Show on the Form

1. GIFTS OF FOOD, LODGING, TRANSPORTATION, ENTERTAINMENT—Report the identity of the source, a brief description (including a travel itinerary, dates, and the nature of expenses provided), and the value of gifts of food, transportation, lodging, or entertainment aggregating \$250 or more from any one source which were received by you or your spouse or dependent child and which do not fall within any of the categories of exclusions enumerated above. To reach a \$250 aggregation, you determine whether any one or combination of the components within this gift category received from one source (food, transportation, lodging, and entertainment) amounts to \$250 or more in value. For example, if you spent a weekend at a hunting lodge owned by AmCoal Corporation, and you received lodging fairly valued at \$150, food valued at \$100, and entertainment valued at \$125, the aggregate value of the gift is \$375. A gift of this nature — hospitality at a lodge owned by a corporation rather than an individual — would not qualify as a "personal hospitality" exclusion. To report this gift you would show, under SOURCE ... "AmCoal Corp., 1210 North St., Chicago, IL"; under BRIEF DESCRIPTION ... "lodging, food, and entertainment as a guest at hunting lodge owned by "AmCoal, 1/25-27/91"; and under VALUE... "\$375."

2. OTHER GIFTS—Report the identity of the source, a brief description, and the value of gifts other than food, transportation, lodging, or entertainment aggregating \$100 or more in value from any one source, other than excluded gifts, which you or your spouse or dependent child received during

D. Items to Report

Report gifts and reimbursements received by you, your spouse or dependent child from any one source during the reporting period aggregating \$250 or more in the case of gifts of food, lodging, transportation, entertainment and reimbursements; or aggregating \$100 or more from any one source in the case of any other gift. A "gift" means any payment, forbearance, advance, rendering or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. In determining which gifts and reimbursements must be reported or aggregated, exclude these items:

1. Anything having a value of \$75 or less;
2. Anything received from "relatives" (see Definition of Terms, above);
3. Bequests and other forms of inheritance;
4. Suitable mementos of a function honoring the reporting individual;
5. Food, lodging, transportation, and entertainment or reimbursements provided by a foreign government within a foreign country or by the United States Government, or D.C., state or local governments;
6. Food and beverages not consumed in connection with a gift of overnight lodging;
7. Anything given to a spouse or dependent child totally independent of the relationship to you;
8. Gift items in the nature of communications to your office, such as subscriptions to newspapers and periodicals;
9. Gifts of hospitality (food, lodging, entertainment) on the donor's personal or family premises, as defined in 5 CFR Part 2634;

Exhibit 1 (continued)

Schedule C

I. Part I—Liabilities

A. General Instructions

The Act requires you to disclose certain of your financial liabilities. The examples on the form show how to report a mortgage on real estate the reporting individual held for the production of income and a promissory note. Note that you will need to disclose the date, interest rate and term (if applicable) of each liability. Also note you must disclose the highest amount owed on any liability held during the reporting period, not just at the end of the period. If the liability was completely paid during the period, you may also note that on the form if you wish.

B. Items to Report

Identify and give the category of amount of the liabilities which you, your spouse or dependent child owed to any creditor which exceeded \$10,000 at any time during the reporting period, except:

1. a personal liability owed to a spouse or dependent child, or to a parent, brother, sister, or child of you, your spouse or dependent child;
2. a mortgage or home equity loan secured by real property which is the personal residence (or a second residence not used for producing income) of you or your spouse;
3. a loan secured by a personal motor vehicle, household furniture, or appliances, where the loan does not exceed the purchase price of the item;
4. a revolving charge account where the outstanding liability did not exceed \$10,000 as of the close of the preceding calendar year; and

5. any liability of your spouse or dependent child which represents the sole financial interest or responsibility of the spouse or child, and about which you have no knowledge, and which is not derived from your income, assets, or activities, and concerning which you neither derive nor expect to derive any financial or economic benefit.

You are required to report any liability of any non-public company, investment pool, or other entity, in which you, your spouse or dependent child have an interest, unless (1) the liability is incidental to the primary trade or business of the entity as indicated by you on Schedule A, or (2) the entity is an excepted investment fund. (See also sections V.e. and f. of the General Instructions preceding those for Schedule A.)

C. What to Show on the Form

Under CREDITORS (NAME AND ADDRESS), show the name and address of the actual creditor unless the reporting individual is only able to identify a fiduciary and certifies in the report that he has made a good faith effort to determine who the actual creditor is and was unable to do so, or upon his certification that such determination is otherwise impracticable. Under TYPE OF LIABILITY, briefly indicate the nature of the liability. Under DATE, enter date loan incurred; under INTEREST RATE, note the set rate or, if a variable one, the formula used to vary the rate, i.e. prime +2%; and under TERM, show the duration of the loan. Check the category of value for the highest amount owed during the reporting period.

II. Part II—Agreements or Arrangements

A. General Instructions and Items to Report

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of

Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits. This includes any agreements or arrangements with a future employer entered into by a termination filer. The example on the form shows the severance agreement under which the reporting individual expects to receive a lump sum payment from the law firm he has left in order to enter the Government. It also shows a continuing pension interest and describes the nexus between the organization and the pension interest, so that a complete conflicts assessment can be made.

For purposes of public disclosure, you must disclose any negotiations for future employment from the point you and a potential non-Federal employer have agreed to your future employment by that employer whether or not you have settled all of the terms, such as salary, title, benefits, and date employment is to begin. Your agency may require internal disclosure of negotiations much earlier and you should seek guidance before conducting any negotiations with persons with whom you do business. A criminal statute, 18 U.S.C. § 208, applies to official actions you may take while negotiating future employment.

B. What to Show on the Form

Under STATUS AND TERMS, describe the agreement or arrangement with appropriate specificity. Under PARTIES, show the name of the organization, or entity, and (if applicable) the name and title of the official, corporate officer, or principal person responsible for carrying out the terms of the agreement or arrangement. Under DATE, show the date of any such arrangement. No report is required regarding any agreement or arrangement entered into by a spouse or dependent child.

Exhibit 1 (continued)

Schedule D

I. Part I—Outside Positions

A. Items to Report

Report all outside positions held at any time during the reporting period, as well as those positions you currently hold as an officer, director, trustee, general partner, proprietor, representative, employee or consultant of (1) any corporation, company, firm, partnership, trust, or other business enterprise; (2) any non-profit organization; (3) any labor organization; (4) any educational institution; or (5) any organization other than the United States Government. Exclude positions held in any religious, social, fraternal, or political entity, and any positions solely of an honorary nature. Be sure to report on Schedule A any income over \$200 that you received from acting in any of these positions. No report is required regarding any positions held by your spouse or dependent child.

B. What to Show on the Form

Give the name, address and brief description (type) of the organization, the title or other brief functional description of the position, and the dates you held the position. If you currently hold the position, in the entry block under "TO," note "Present."

II. Part II—Compensation in Excess of \$5,000 Paid by One Source

A. General Instructions

This Part is to be completed by nominees and new entrants only. You must disclose your sources of compensation in excess of \$5,000 and the nature of the duties you provided. This includes not only the source of your salary or other fees, but the disclosure of clients for whom you personally provided \$5,000 or more in services even though the clients' payments

were made to your employer, firm or other business affiliation. The examples on the form show the proper way to disclose the business affiliation which paid the reporting individual's compensation, in this case a law firm, and a client of the firm for which the reporting individual personally provided over \$5,000 worth of services. This Part does not require you to disclose the value of the compensation for these services; it does require a brief description of the services you provided. When a source has paid you directly, you should have a corresponding entry on Schedule A if the payment was within the reporting period for Schedule A. A client who paid your business affiliation more than \$5,000 for your services will appear only in this Part.

B. Items to Report

Report the nature of the duties performed or services rendered for any person (other than the United States Government) from which compensation in excess of \$5,000 in any of the two preceding calendar years or the present calendar year was received by you or an entity which billed for your services (business affiliation). Exclude: (1) information to the extent that it is considered confidential as a result of a privileged relationship established by law, or (2) information about persons for whom services were provided by a business affiliation of which you were a member, partner or employee unless you were directly involved in the provision of the services. The name of a client of a law firm is not generally considered confidential. No report is required regarding compensation paid to your spouse or a dependent child.

C. What to Show on the Form

Under SOURCE, give the name and address of the person to whom services were provided, for example, "Newark Real Estate Co. (Newark, NJ)"; and under BRIEF DESCRIPTION, the title or other brief functional description of the services rendered, for example: "tax matters researched for above firm while an associate with Quinn and Ouspensky."

Volume 7, Legal and Ethical Guidelines
 Public and Confidential Financial Disclosure Reports
 Handbook 7.6 Exhibits

Exhibit 1 (continued)

Form Approved
 (OMB No. 3200-0001)

Executive Branch PUBLIC FINANCIAL DISCLOSURE REPORT

SF 278 (Rev. 1981) GSA Form 278 U.S. Office of Governmental Ethics	Reporting Status (Check Appropriate Box) <input type="checkbox"/> Independent <input type="checkbox"/> Embedded	Calendar Year Covered, by Month: From: _____ To: _____	Date of Appointment, Qualification, Election, or Reappointment (Month, Day, Year) _____	Penetration Date (If Applicable) (Month, Day, Year) _____	Agency Use Only
Reporting Individual's Name _____	Last Name _____	First Name and Middle Initial _____	Title of Position _____	Telephone No. (Include Area Code) _____	OOR Use Only
Position for Which Reported _____	Address (Street, Box, City, State, and ZIP Code) _____	Department or Agency (If Applicable) _____	Fee for Late Filing Any individual is required to file this report and does so more than 30 days after the date the report is required to be filed, or if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a \$200 fee.		
Location of Present Office (if forwarding address) _____	Title of Position(s) and Date(s) Held _____	Do You Intend to Create a Qualified Third Party? Yes <input type="checkbox"/> No <input type="checkbox"/>	Reporting Periods Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.		
Position(s) Held with the Federal Government During the Preceding 18 Months (If Not Same as Above) _____	Name of Congressional Committee Considering Nomination _____	Date (Month, Day, Year) _____	Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.		
Presidential Nominee Subject to Senate Confirmation _____	Signature of Reporting Individual _____	Date (Month, Day, Year) _____	Non-ices, New Entrants and Candidates for President and Vice President: Schedule A - The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing. Schedule B - Not applicable. Schedule C, Part I (Liabilities) - The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing. Schedule C, Part II (Agreements or Arrangements) - Show any agreements or arrangements as of the date of filing. Schedule D - The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.		
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, accurate and correct to the best of my knowledge and belief.	Signature of Other Reviewer _____	Date (Month, Day, Year) _____	Schedule A - The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing. Schedule B - Not applicable. Schedule C, Part I (Liabilities) - The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing. Schedule C, Part II (Agreements or Arrangements) - Show any agreements or arrangements as of the date of filing. Schedule D - The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.		
Other Reviewer (If desired by agency) _____	Signature of Designated Agency Ethics Officer/Reviewing Official _____	Date (Month, Day, Year) _____	Schedule A - The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing. Schedule B - Not applicable. Schedule C, Part I (Liabilities) - The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing. Schedule C, Part II (Agreements or Arrangements) - Show any agreements or arrangements as of the date of filing. Schedule D - The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.		
Agency Ethics Official's Opinion This information contained in this report satisfies the duties of the Agency Ethics Officer/Reviewing Official as to the accuracy of the information provided by the reporting individual.	Signature _____	Date (Month, Day, Year) _____	Schedule A - The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing. Schedule B - Not applicable. Schedule C, Part I (Liabilities) - The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing. Schedule C, Part II (Agreements or Arrangements) - Show any agreements or arrangements as of the date of filing. Schedule D - The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.		
Office of Government Ethics Use Only Comments of Reporting Official (if additional space is required, use the reverse side of this sheet)	_____				

(Certification on reverse side of this sheet)

SF 278 (Rev. 1981) 7-13

Exhibit 1 (continued)

Page Number		BLOCK C		BLOCK B		BLOCK A	
SCHEDULE A		Amount		Valuation of Assets at close of reporting period		Assets and Income	
Date (Mo., Day, Yr.) Only if Honorary		Actual Amount Only if "Other" specified		Type		Identify each asset held for the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period. Identify each asset or source of income which generated over \$200 in income during the reporting period.	
		\$100,001 - \$1,000,000	\$125,000	Other (Specify Type)	Over \$1,000,000	None <input type="checkbox"/>	Over \$1,000,000
		\$50,001 - \$100,000		Capital Gains	\$500,001 - \$1,000,000	Over \$1,000,000	\$500,001 - \$1,000,000
		\$15,001 - \$50,000		Capital Gains	\$100,001 - \$500,000	Over \$1,000,000	\$100,001 - \$500,000
		\$5,001 - \$15,000		Capital Gains	\$50,001 - \$100,000	Over \$1,000,000	\$50,001 - \$100,000
		\$201 - \$1,000		Capital Gains	\$1,001 - \$15,000	Over \$1,000,000	\$1,001 - \$15,000
				Capital Gains	\$15,001 - \$50,000	Over \$1,000,000	\$15,001 - \$50,000
				Capital Gains	\$50,001 - \$100,000	Over \$1,000,000	\$50,001 - \$100,000
				Capital Gains	\$100,001 - \$500,000	Over \$1,000,000	\$100,001 - \$500,000
				Capital Gains	\$500,001 - \$1,000,000	Over \$1,000,000	\$500,001 - \$1,000,000
				Capital Gains	Over \$1,000,000	Over \$1,000,000	Over \$1,000,000

Exhibit 1 (continued)

SP 278 (Rev. 1/91)
5 CFR Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name	SCHEDULE B New Entrant/Nominee/Candidate: Schedule Not Applicable	Page Number
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Part I: Transactions None

Report any purchase, sale, or exchange by you, your spouse, or dependent child during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeds \$1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

B DC w J	Identification of Assets	Transaction Type (a)			Date (Mo., Day, Yr.)	Amount of Transaction (b)														
		Purchase	Sale	Exchange		00000001	00000002	00000003	00000004	00000005	00000006	00000007	00000008	00000009	00000010					
Example	Control Airline Common	x			9/91															
1																				
2																				
3																				
4																				
5																				

Part II: Gifts, Reimbursements, and Travel Expenses None

Report the source, a brief description (including travel, dates, and the nature of expenses provided), and the value of: (1) transportation, lodging, food, or entertainment received from one source totaling \$250 or more (unless received as personal hospitality at the donor's personal or family residence); (2) other gifts from one source totaling \$100 or more in value; and (3) cash reimbursements of \$250 or more from one source. Exclude gifts, reimbursements and travel expenses from the U.S. Government. Also exclude gifts from relatives, gifts of \$15 or less when aggregating gifts for the total from one source, and gifts and reimbursements received by your spouse or dependent child that were given totally independent of the relationship to you. See instructions for further exclusions.

B DC w J	Source (Name and Address)	Brief Description	Value
Example	Natl Assn. of Book Collectors, NY, NY	Airline tickets, hotel rooms & meals incident to national conference	\$1500
	Natl Assn. of Book Collectors, NY, NY	Leather wallet for retiring president	\$125
1			
2			
3			
4			
5			

Previous Editions Cannot Be Used

Exhibit 1 (continued)

89-278 (Rev. 1/81)
2 CFR Part 2634
U.S. Office of Government Ethics
Reporting Individual's Name _____ Page Number _____

SCHEDULE C

Part I: Liabilities

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in Instructions. See Instructions for revolving charge accounts.

Qualify (Name and Address)

DC Example: First District Bank, Washington, DC
John Jones, 123 4th St., Washington, DC

Type of Liability
Mortgage on rental property, Dallas, TX
Professional note

Date Incurred
1981
1980

Interest Rate
15%
10%

Term if applicable
31 yrs.
as desired

Category of Amount or Value (a)

\$1,000,001
\$750,001
\$500,001
\$250,001
\$100,001
\$50,001
\$25,001
\$10,001
Over

Part II: Agreements or Arrangements

Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See Instructions regarding the reporting of negotiations for any of these arrangements or benefits.

Status and Terms of any Agreement or Arrangement

Example: Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share included on service performed through 1/31/81 and received pension benefits (independently managed, fully funded, defined contribution plan)

Party

Due

198

Exhibit 1 (continued)

SF 278 (Rev. 1/81)
 5 CFR Part 2635
 U.S. Office of Government Ethics

Reporting Individual's Name	SCHEDULE D	Page Number			
<p>Part I: Positions Held Outside U.S. Government Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political affiliations and those solely of an honorary nature.</p>					
None <input type="checkbox"/>					
	Organization (Name and Address)	Type of Organization	Position Held	From (Mo, Yr.)	To (Mo, Yr.)
Examples:	West Assn. of Park Collectors, NY, NY ----- Doe Jones & Smith, Hometown, USA	Non-profit education ----- Law firm	President ----- Partner	8/82 ----- 1/85	Present ----- 11/81
1					
2					
3					
4					
5					
6					
<p>Part II: Compensation In Excess Of \$5,000 Paid by One Source Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.</p>					
Incumbent/ Termination Filer/ Candidate: <input type="checkbox"/> Not Applicable <input type="checkbox"/> None <input type="checkbox"/>					
	Source (Name and Address)	Brief Description of Duties			
Examples:	Doe Jones & Smith, Hometown, USA ----- Metro University (client of Doe Jones & Smith), Hometown, USA	Legal services ----- Legal services in connection with university construction			
1					
2					
3					
4					
5					
6					

Public Edition Cover B - Cont

EXHIBIT H
ACRS/ACNW FORM – USE OF ACRS/ACNW CONSULTANTS

USE OF ACRS/ACNW CONSULTANTS

Consultant's Name: _____ Affiliation: _____

Requested by: (member) _____

Services required to start by: (date) _____ Services required to end by: (date) _____

Estimated number of days: _____ Consultant's report due by: _____

Consultant's Skills, Background and ACRS Need (be specific) _____

Meeting Date: _____ HLW _____ LLW _____ AP600 _____ SBWR _____ Other _____

Conflict-of-interest check completed on: _____ Approved by Vice Chairman on: _____

Actual Location (if other than Rockville): _____ Rental Car: Y/N _____

Source:

Personal Services Consultant: Y/N _____ National Lab.: Y/N _____

Sole Source (Form 30): Y/N _____ Interagency Agreement: Y/N _____

Invitational Travel: Y/N _____ Y Only: Social Security Number: ___/___/___

Address: _____

Staff Engineer _____ Date _____ Branch Chief Concurrence _____ Date _____

CONSULTANT USAGE REPORT (Fill out after work is completed)

Meeting(s) attended: _____

Estimated Number of days - Preparation: _____
Travel: _____
Meeting attendance: _____

Dates work performed: _____ Appropriately Claimed: Y/N _____

Final Product: _____

Date Received: _____ Overall performance is appropriate: Y/N _____

Comments: _____

Staff Engineer _____ Date _____ Branch Chief Concurrence _____ Date _____

Return to Barbara White within 5 working days after the consultant completes task.

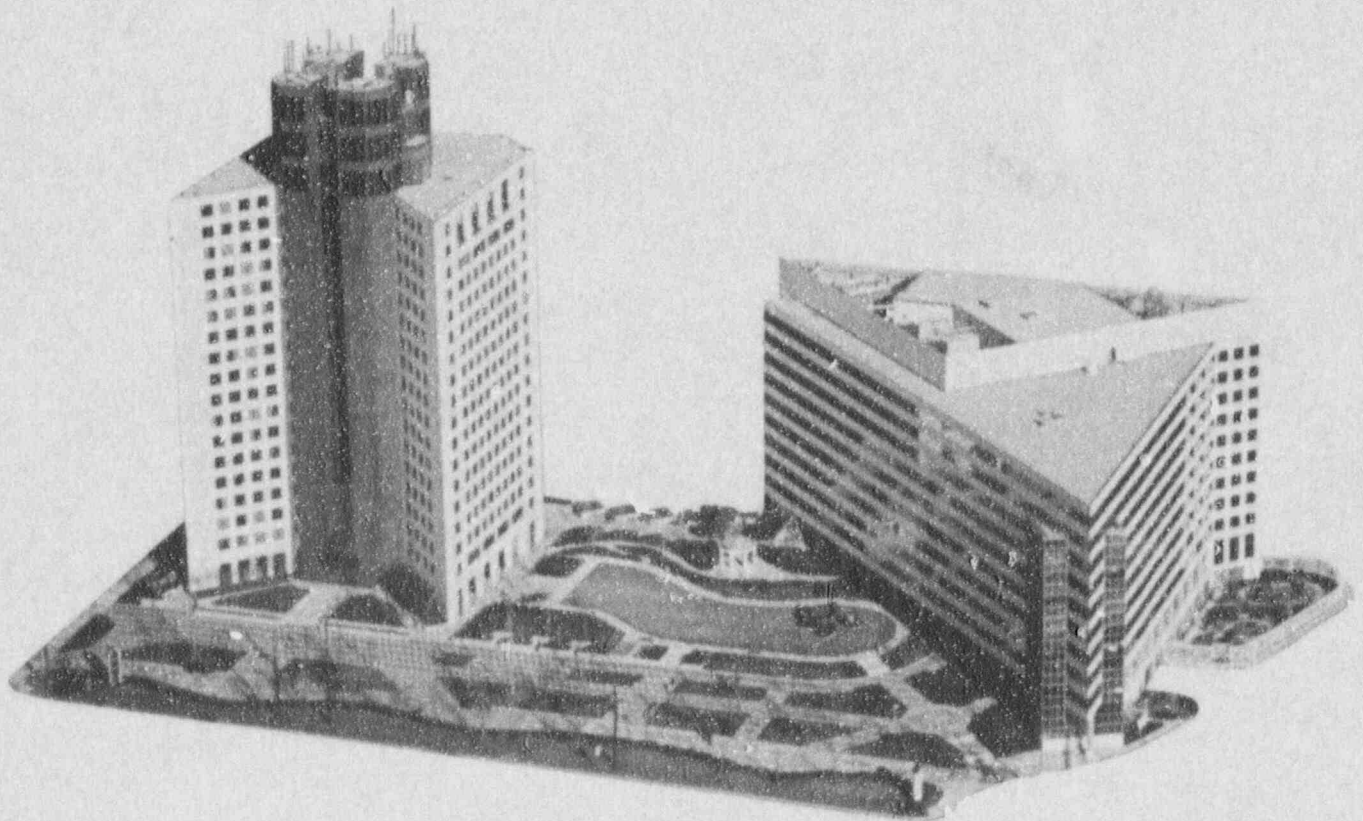
REQUEST CANCELLED _____
Engineer _____ Date _____

NUREG/BR-0225

United States
Nuclear Regulatory Commission



ACRS/ACNW Members' Handbook



Advisory Committee on Reactor Safeguards
Advisory Committee on Nuclear Waste

March 1996

NUREG/BR-0225

United States
Nuclear Regulatory Commission



ACRS/ACNW Members' Handbook



Advisory Committee on Reactor Safeguards
Advisory Committee on Nuclear Waste

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