

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

MD 7.8	OUTSIDE EMPLOYMENT	DT-24-19
<i>Volume 7:</i>	Legal and Ethical Guidelines	
<i>Approved by:</i>	Brooke Clark, Director Office of the General Counsel	
<i>Date Approved:</i>	October 9, 2024	
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<i>Issuing Office:</i>	Office of the General Counsel	
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EXECUTIVE SUMMARY

Management Directive 7.8, “Outside Employment,” provides the policies and procedures required for the approval of certain compensated outside employment. This revision—

- Reflects that the Chair appoints a Designated Agency Ethics Official (DAEO) within the Office of the General Counsel (OGC).
- Removes “Exhibit 1 – Sample Employee Request for Outside Employment,” and instead refers employees to an editable sample memorandum hosted on the NRC ethics SharePoint site.
- Replaces hyperlinks with current links to NRC Ethics Gateway and the NRC ethics SharePoint site.

In addition, the NRC has revised this MD as part of its efforts to use more inclusive language in its publications. These changes, which include changing “Chairman” to “Chair” in some instances, are purely editorial and do not affect the meaning of the guidance in this document.

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I. POLICY

In accordance with the U.S. Nuclear Regulatory Commission's (NRC) supplemental ethics regulation, 5 CFR 5801.103, NRC employees are required to receive written approval before engaging in certain compensated outside employment. Employees may engage in outside employment not covered by this management directive without obtaining prior written approval, subject to any generally applicable ethics laws or restrictions.

II. OBJECTIVES

- Inform employees of outside employment that may be incompatible with their NRC employment.
- Inform employees when prior approval to engage in certain compensated outside employment is required.
- Inform employees of the NRC officials who are authorized to grant approvals necessary for employees to engage in certain compensated outside employment.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Chair

1. Appoints a Designated Agency Ethics Official (DAEO) within the OGC in accordance with *Code of Federal Regulations* Title 5, part 2638.104, "Government ethics responsibilities of agency ethics officials."
2. Authorizes outside employment for employees on their personal staff, for the Office of the Executive Director for Operations (EDO), and for directors of offices reporting to the Chair or the Commission.

B. Commissioners

Authorizes outside employment for employees on their personal staff.

C. Inspector General (IG)

Authorizes outside employment for employees of the Office of the Inspector General (OIG).

D. Designated Agency Ethics Official (DAEO), Office of the General Counsel (OGC)

1. Designates office directors and regional administrators as authorizing officials for outside employment requests made by employees in their respective offices and regions. See memorandum from Margaret M. Doane, General Counsel, designating outside employment authorizing officials, September 20, 2016 ([ML16265A420](#)).
2. Advises the Chair, Commission, EDO, and office directors on requests for approval of outside employment. May delegate this authority to deputy ethics officials.

E. Executive Director for Operations

1. Authorizes outside employment for employees in their office, for the regional administrators, and for the office directors who report to the EDO.
2. Concurs on authorizations for outside employment granted by regional administrators and office directors who report to the EDO.
3. May delegate this authority to the Deputy Executive Directors or the Associate Director for Operations.

F. Office Directors and Regional Administrators

1. As designated by the DAEO, authorize outside employment for employees in their respective offices or regions. Regional administrators and office directors who report to the EDO must obtain concurrence from the EDO before providing final authorization.
2. May delegate this authority to a deputy office director or deputy regional administrator.

G. Deputy Ethics Officials (OGC)

1. Advise the Chair, Commissioners, the Inspector General, office directors, regional administrators, and individual employees, as necessary, on requests for approval of outside employment and whether such outside employment would violate a Federal statute or regulation.
2. Concur on requests for approval of outside employment before such requests are submitted to the appropriate authorizing official.

H. Deputy Ethics Counselors (Regional Counsels)

1. Advise employees in their respective regions on matters relating to requests for approval of outside employment, in consultation with deputy ethics officials at NRC headquarters.
2. Concur on requests for approval of outside employment before such requests are submitted to the Regional Administrator.

IV. APPLICABILITY

This management directive (MD) applies to all current NRC employees, except special Government employees.

V. HANDBOOK

Handbook 7.8 contains detailed descriptions of the types of compensated outside employment that require prior approval and the procedures for seeking this approval.

VI. DEFINITIONS**Employee**

An NRC employee or an employee of another Government agency assigned or detailed to the NRC for more than 30 days. Unless specifically stated otherwise in MD 7.8, the term does not include special Government employees.

Outside Employment

Any form of non-Federal employment, business relationship, or activity involving the provision of personal services by the employee. This includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker.

Special Government Employee

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

VII. REFERENCES

Code of Federal Regulations

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

5 CFR 2635.802, "Conflicting Outside Employment and Activities."

5 CFR 2635.807, "Teaching, Speaking and Writing."

5 CFR 5801.103, "Prior Approval for Outside Employment."

Nuclear Regulatory Commission Documents

Management Directives—

7.3, "Participation in Professional Organizations."

7.9, "Ethics Approvals and Waivers."

Memorandum to Those on the Attached List from Margaret M. Doane, General Counsel, "Memorandum Designating 'Outside Employment' Authorizing Officials," September 20, 2016 ([ML16265A420](#)).

NRC Ethics Gateway:

<https://nrc.appiancloud.com>.

NRC Ethics SharePoint Website:

<https://usnrc.sharepoint.com/teams/NRC-Ethics/SitePages/Home.aspx>.

United States Constitution

Article I, Section 9, Clause 8, "Emoluments Clause."

United States Code

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

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

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

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

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

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<i>Contact Name:</i>	Eric Michel	
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I. INTRODUCTION

- A. The Governmentwide “Standards of Ethical Conduct for Employees of the Executive Branch” in Title 5 of the *Code of Federal Regulations* Part 2635 prohibits agency employees from engaging in outside employment that conflicts with their official duties. The U.S. Nuclear Regulatory Commission (NRC) has promulgated its own supplemental agency-specific ethics regulation, with the concurrence of the Office of Government Ethics (OGE), which requires that NRC employees (other than special Government employees) receive written approval before engaging in certain compensated outside employment. This handbook identifies the outside employment activities that require prior approval, describes the procedures for obtaining approval, and identifies those authorized to grant approval.
- B. The requirement to obtain prior written approval applies only to employees who engage in compensated outside employment with an entity described in Section II.B of this handbook, concurrent with their NRC employment. The written approval requirement does not apply to employees who are leaving the NRC for another employer.
- C. While not requiring prior written approval, employees who engage in compensated outside employment with an entity other than those described in Section II.B must still remain mindful of the ethics statutes and regulations identified in Section III.B of this handbook. These statutes and regulations still govern Federal employee conduct and outside employment activities, regardless of whether the employment activity falls within the NRC-specific prior written approval regulation. Employees who have questions regarding the application of these statutes and regulations to their individual situations should contact a deputy ethics official.
- D. While NRC special Government employees are not required to receive prior approval before engaging in compensated outside employment, special Government employees are reminded that their outside activities may still be governed by various ethics requirements (including Federal criminal conflict of interest statutes, the Standards of Ethical Conduct for Employees of the Executive Branch in 5 CFR Part 2635, and the Emoluments Clause of the U.S. Constitution). Special Government employees with questions about these various ethics requirements should contact a deputy ethics official.

II. REQUIREMENTS FOR OUTSIDE EMPLOYMENT

- A. “Outside employment” is defined as any form of non-Federal employment, business relationship, or activity, involving the provision of personal services by the employee.

- B.** In accordance with 5 CFR 5801.103, “Prior Approval for Outside Employment,” NRC employees, other than special Government employees, are required to obtain prior written approval before engaging in compensated outside employment with entities regulated by or having business with the Commission. Specifically, these entities include—
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 that represents clients concerning nuclear matters, and
 8. A law firm or other organization that is participating in an NRC proceeding or that regularly represents itself or clients before the NRC.
- C.** The requirement to obtain prior written approval is only necessary before engaging in outside employment with one of the entities listed in Section II.B. However, employees are also reminded that they must comply with any recusal obligations that may arise once they have begun “seeking” or “negotiating for” employment with such an entity. These recusal obligations derive from 18 U.S.C. 208, “Acts Affecting a Personal Financial Interest,” and Subpart F of 5 CFR 2635, “Seeking Other Employment.” Additionally, engaging in uncompensated outside activity with entities listed in Section II.B, while not requiring prior written approval, can raise ethical issues. Employees with questions concerning these restrictions should contact a deputy ethics official through the [NRC Ethics Gateway](#) or their regional counsel, as appropriate.

III. REVIEW OF REQUESTS FOR OUTSIDE EMPLOYMENT

- A.** An employee seeking prior written approval to engage in outside employment with an entity listed in Section II.B of this handbook must first consult with a deputy ethics official. The employee must provide the deputy ethics official with sufficient information to make an initial determination that the proposed employment would not violate a Federal statute or regulation. At minimum, this information includes the name of the prospective employer, a detailed description of the employee’s present NRC duties, and a detailed description of the specific duties or services to be performed in the course of the proposed outside employment. A deputy ethics official may request additional information from the employee, as necessary.

- B.** If the deputy ethics official determines that the proposed outside employment would violate a Federal statute or regulation, the request cannot be approved, and the deputy ethics official will provide a denial in writing. Statutes and regulations relevant to this determination include—
1. 18 U.S.C. 203, prohibiting Government employees from receiving or sharing in compensation for the representation of a party before another Federal agency or court in a matter in which the United States is a party or has a direct and substantial interest.
 2. 18 U.S.C. 205, prohibiting Government employees from prosecuting a claim against the United States or representing another party before another Federal agency on a matter in which the United States is a party or has a direct and substantial interest.
 3. 18 U.S.C. 209, prohibiting Government employees from receiving compensation or a supplementation of salary from anyone other than the Federal Government for the performance of their official duties.
 4. 5 CFR 2635.802, prohibiting employees from engaging in outside activities that would have the effect of requiring the employee's recusal from NRC matters so central or critical to the performance of official duties that the employee's ability to perform their position would be materially impaired.
 5. 5 CFR 2635.807, prohibiting agency employees from receiving compensation for "teaching, speaking or writing that relates to employee's official duties" unless an exception applies.
 6. Article 1, Section 9, Clause 8 of the United States Constitution (the Emoluments Clause), prohibiting Federal employees (including certain special Government employees) from receiving compensation from a foreign government or a political subdivision of a foreign government.
- C.** If the reviewing deputy ethics official determines that the proposed employment would not violate a Federal statute or regulation, the ethics official should also determine whether the proposed employment would create a reasonable appearance of a conflict of interest, misuse of position, or a perceived lack of impartiality in agency decisionmaking or operations. The avoidance of creating even the appearance of a violation of ethical standards is a general principle and basic obligation of public service. The creation of an impermissible appearance may also be grounds for denial of the request, which the deputy ethics official will provide in writing.
- D.** If the deputy ethics official determines that the proposed outside employment would not violate a Federal statute or regulation and would not result in a reasonable appearance of impropriety, the deputy ethics official should convey this determination in writing to the requesting employee.

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- E.** While regional counsels may make these determinations for employees within their respective regions, to help ensure consistency throughout the regions, they must consult with a headquarters deputy ethics official before doing so.
- F.** After receiving a favorable determination from an ethics official, the requesting employee should then complete and submit an approval memorandum to the appropriate authorizing official. A sample memorandum is available on the [NRC ethics SharePoint site](#).
1. The concurrence for the memorandum must include, at minimum, the employee's immediate supervisor and the deputy ethics official who made the determination. Others may be added to the concurrence as deemed necessary.
 2. If the deputy ethics official has identified any necessary conditions the employee must follow to avoid violating a Federal statute or regulation or creating an impermissible appearance of impropriety, those conditions must be included in the memorandum.
- G.** The authorizing officials are as follows.
1. The Chair authorizes outside employment for the EDO and office directors who report to the Chair.
 2. Commissioners, including the Chair, authorize outside employment for employees on their personal staff.
 3. The Inspector General authorizes outside employment for employees within the Office of the Inspector General.
 4. The EDO authorizes outside employment for employees within the office of the EDO, regional administrators, and office directors who report to the Commission through the EDO.
 5. Office directors and regional administrators authorize outside employment for employees in their respective offices and regions.
- H.** Authorizing officials may consult with anyone at the agency, including a different authorizing official. For offices who report to the Commission through the EDO, the authorizing official must receive concurrence from the EDO, which may be done by email.

- I. The authorizing official retains sole and final discretion to approve the outside employment. The authorizing official may, for example, choose not to approve a request because, notwithstanding the determination that the employment is legally permissible, approval would nonetheless result in the appearance of an inappropriate relationship between the agency and the employer. The authorizing official may request more information if necessary to make an approval determination. The authorizing official shall approve or deny the request in writing and in a timely fashion, which may be done by email.
- J. Employees who receive outside employment approvals must provide a copy of the final approval to a deputy ethics official for record-keeping.
- K. Unless there are specific circumstances in an individual case that would warrant otherwise, an employee ordinarily should be authorized to serve as an instructor at an academic institution, provided that—
 - 1. The proposed employment does not “relate to the employee’s official duties” as that term is defined in 5 CFR 2635.807 or
 - 2. The proposed employment qualifies for the teaching exception in 5 CFR 2635.807(a)(3).