

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

MD 10.12		USE OF ADVISORY COMMITTEE MEMBERS	DT-13-03
<i>Volume 10,</i>	Personnel Management		
<i>Part 1:</i>	Employment and Staffing		
<i>Approved By:</i>	R. W. Borchardt Executive Director for Operations		
<i>Date Approved:</i>	February 6, 2013		
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<i>Issuing Office:</i>	Office of the Chief Human Capital Officer		
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EXECUTIVE SUMMARY			
Directive and Handbook 10.12 have been revised to—			
<ul style="list-style-type: none"> (1) Update organizational responsibilities and delegations of authority for the Commission, Executive Director for Operations, Advisory Committee Management Officer, the Office of Administration (ADM), and the Office of Federal and State Materials and Environmental Management Programs (FSME); and (2) Reflect the June 1, 2008, merger of the Advisory Committee on Nuclear Waste and Materials (ACNW&M) into the Advisory Committee on Reactor Safeguards (ACRS). 			

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I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission to establish and use advisory committees, both statutory as well as discretionary, to assist in the accomplishment of NRC's mission and to appoint individuals as members of these committees in accordance with applicable statutory and regulatory requirements in 10 CFR Part 7. Whenever possible, the NRC uses the services of advisory committee members through personnel appointments.

II. OBJECTIVE

To establish policies and procedures for obtaining and using advisory committee members in an effective and efficient manner.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Chairman

1. Conducts an annual comprehensive review of the activities and responsibilities of each NRC advisory committee.
2. Except as delegated to the Chief Human Capital Officer (CHCO), determines the rate of pay for advisory committee members paid at a rate at or below the level of GG-15, step 10.
3. Determines whether rates above GG-15 are necessary and justified for an advisory committee member and approves rates of pay above GG-15, step 10.
4. Reviews annually the rate of pay for advisory committee members who are compensated above the GG-15, step 10, level.
5. Appoints the NRC Advisory Committee Management Officer (ACMO).

B. Commission

1. Approves the appointment, renewal, or termination of appointment of advisory committee members, unless otherwise delegated.
2. Determines the duration of the member appointment for each advisory committee other than the Advisory Committee on Reactor Safeguards (ACRS) and determines the number of consecutive reappointments that members of advisory committees may serve.

C. Executive Director for Operations (EDO)

1. Recommends to the Chairman the rate of pay above GG-15, step 10, for members of advisory committees other than the ACRS and Advisory Committee for Medical Use of Isotopes (ACMUI).
2. Approves administrative policies and procedures associated with the use of advisory committee members for the NRC, and consults with the Office of the General Counsel (OGC) regarding applicable laws and regulations.

D. Executive Director for Advisory Committee on Reactor Safeguards (ACRS)

1. Recommends to the Chairman the rate of pay above GG-15, step 10, for members of the ACRS.

2. Establishes a screening panel to recommend new ACRS members.
3. Provides a recommendation to the Commission on ACRS member reappointments.
4. Approves requests for official travel by ACRS members.
5. Approves all information technology acquisitions for ACRS members.
6. Approves other acquisition requests above \$200 for ACRS members.
7. Approves vouchers for compensation and for reimbursement of official travel expenses for ACRS members.
8. Implements administrative and management controls applicable to ACRS members.
9. Carries out responsibilities delegated by statute or regulation.
10. Develops an assessment tool to evaluate the accomplishments of the committee.

E. Advisory Committee Management Officer (ACMO), Office of the Secretary of the Commission (SECY)

1. Functions as the NRC ACMO.
2. Carries out responsibilities delegated by statute or regulation to the ACMO.
3. Ensures that administrative guidelines and management controls are issued that apply to NRC advisory committees and cover the establishment, procedures, and accomplishments of NRC advisory committees.
4. Ensures that the reports, records, and papers of any such committee are assembled and maintained during its existence as required by 10 CFR 7.17.
5. Carries out other responsibilities as described in 10 CFR 7.10.

F. Office of the General Counsel (OGC)

Provides advice and makes determinations with regard to legal requirements applicable to advisory committees and their members, including requirements relating to political activity and conflict of interest, the Federal Advisory Committee Act (FACA), and the Freedom of Information Act (FOIA).

G. Director, Office of Information Services (OIS)

Issues guidelines to advisory committee members regarding the appropriate computer hardware and software necessary for the performance of committee business.

H. Director, Office of Administration (ADM)

1. Provides purchase cards for committee members to use as authorized by Commission policy and provides required goods and services when use of the purchase card is not authorized.
2. Provides oversight for purchase card purchases as well as for other procurement-related expenditures and reimbursements for committee members, including office space and clerical assistance for their work outside NRC facilities, when necessary.
3. Arranges for the leasing of office space, when necessary, for committee members' work outside NRC facilities.

I. Chief Human Capital Officer (CHCO)

1. Processes personnel appointments and renewals, amendments, and termination of employment for members after ensuring that all requisite clearances and approvals have been received.
2. Upon delegation by the Chairman, determines rates of pay for all advisory committee members, up to the GG-15, step 10, level.
3. Provides written information to new or reappointed advisory committee members about pay, pay deductions, travel, leave eligibility, security requirements, conduct, and other policy aspects of employment.
4. Notifies the Division of Facilities and Security (DFS), ADM, when an individual member's appointment has been renewed or is terminated.
5. Informs advisory committee members before they are appointed, through personal contact or correspondence, about NRC security requirements applicable to their duties.

J. Director, Office of Federal and State Materials and Environmental Management Programs (FSME)

1. Appoints members of the ACMUI based on recommendations of the screening panel, and after consultation with the Commission.

2. Recommends to the Chairman the rate of pay above GG-15, step 10, for members of the ACMUI.
3. Appoints the ACMUI Chairman and Vice Chairman.

K. Office Directors and Regional Administrators

1. Recommend to the EDO the rate of pay and the initial appointment or renewal of appointment of each advisory committee member under their purview. This authority may only be delegated to the deputy office director or the deputy regional administrator.
2. Establish screening panels to recommend new members to serve on advisory committees for which an office director or a regional administrator has responsibility.
3. Approve requests for official travel by advisory committee members under their purview.
4. Approve vouchers for compensation and for reimbursement of official travel expenses.
5. In conjunction with the Director of OIS, or his or her designee, approve or disapprove requests by advisory committee members for the acquisition of personal computers.

L. Director, Division of Facilities and Security (DFS), ADM

Maintains contact with advisory committee members to ensure compliance with NRC security requirements throughout their assignments.

M. Director, Division of Materials Safety and State Agreements (MSSA), FSME

1. Approves the *Federal Register* announcements of vacancies on the ACMUI.
2. Establishes a screening panel to recommend new ACMUI members.
3. Implements administrative and management controls applicable to ACMUI members, including those for requests for travel, information technology acquisitions, and reimbursement of official travel expenses.

N. Associate Director for Space Consolidation (ADSC), ADM

Oversees the disposition of property and equipment for advisory committee members purchased with NRC funds.

O. Advisory Committee Members

1. Fulfill their obligation to carry out advisory services in an effective and efficient manner to assist NRC in the accomplishment of its mission.
2. Follow the guidance in Management Directive 13.1, "Property Management."
3. Inform ADSC, ADM, of their plans to terminate their employment with the NRC so that the disposition of any and all property and equipment purchased with NRC funds or supplied by NRC can be determined.

IV. APPLICABILITY

The policy and guidance in this directive and handbook apply to all NRC advisory committee members who receive member appointments through the Office of the Chief Human Capital Officer (OCHCO). Provisions of this directive and handbook also may be applicable to NRC advisory committee members who do not receive member appointments. Members who are regular, full-time Government employees should consult with OCHCO and OGC regarding the applicability of this directive and handbook to them.

V. HANDBOOK

Handbook 10.12 contains guidance on obtaining and using advisory committee members.

VI. REFERENCES

Code of Federal Regulations

5 CFR Part 2634, "Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture."

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

5 CFR Part 2640, "Interpretation, Exemptions, and Waiver Guidance Concerning 18 U.S.C. 208 (Acts Affecting a Personal Financial Interest)."

10 CFR Part 7, "Advisory Committees."

41 CFR Chapters 300-304, "Federal Travel Regulation System."

United States Code

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), Sections 29, 161a, and 161d.

Bribery, Graft, and Conflicts of Interest (18 U.S.C., Chapter 11, Sections 202-209).

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

Federal Advisory Committee Act (5 U.S.C. App. 2).

Freedom of Information Act (5 U.S.C. 552).

Hatch Act (5 U.S.C. 7321 et seq.), 5 CFR Part 734.

Receipt and Disposition of Foreign Gifts and Decorations (5 U.S.C. 7342).

Nuclear Regulatory Commission Documents

Advisory Committee on Reactor Safeguards Administrative Manual, dated January 2010, <http://www.internal.nrc.gov/ACRS/AdminManual.pdf>.

NRC Management Directives—

2.7, "Personal Use of Information Technology."

3.4, "Release of Information to the Public."

7.5, "Ethics Counseling and Training."

7.6, "Public and Confidential Financial Disclosure Reports."

7.7, "Security Ownership."

10.6, "Use of Consultants and Experts."

10.41, "Pay Administration."

11.1, "NRC Acquisition of Supplies and Services."

12.2, "NRC Classified Information Security Program."

12.3, "NRC Personnel Security Program."

12.6, "NRC Sensitive Unclassified Information Security Program."

13.1, "Property Management."

14.1, "Official Temporary Duty Travel."

NUREG/BR-0309, "Serving on the Advisory Committee on the Medical Uses of Isotopes (ACMUI): A Member's Guide" (March 2004).

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I. USE OF ADVISORY COMMITTEE MEMBERS

A. Introduction

1. U.S. Nuclear Regulatory Commission staff members who wish to establish an advisory committee should contact the NRC Advisory Committee Management Officer. The Advisory Committee on Reactor Safety (ACRS) is the NRC's only statutory advisory committee, while the Advisory Committee on Medical Uses of Isotopes (ACMUI) is currently the only active discretionary advisory committee.
2. As a matter of agency policy, the services of advisory committee members should be obtained through an Office of the Chief Human Capital Officer (OCHCO) personnel appointment (member appointment) whenever possible. Membership in ACRS and ACMUI is gained through a formal nomination and selection process after issuance of a *Federal Register* notice to solicit nominations from interested individuals. After receipt of nominations, NRC staff convenes a screening/selection panel to evaluate nominees and provide recommendations for appointment by the appropriate appointing authority.
3. When it is contemplated that an advisory committee member may be obtained by means other than a personnel appointment, the Office of the General Counsel (OGC) should be contacted to determine the legality or propriety of that action.
4. When it is contemplated that advisory committee members may be used as consultants elsewhere in the agency in addition to their role as advisory committee members, OGC should be contacted to determine the legality or propriety of such action.
5. Even when they are paid above the GG-15 level, advisory committee members are not members of the Senior Executive Service, nor are they senior level employees.

B. Release of NRC Information

Advisory committee members should consider as privileged any information obtained as a result of their advisory committee membership that is not part of the body of public information. Members may not divulge this information to anyone outside the NRC, including their private employers or clients. Members should not make use of this

information for other than NRC purposes unless they receive prior authorization. Information that is not public includes, but is not limited to, proprietary or source selection information, pre-decisional documents, private personal records, and draft Office of the Secretary of the Commission (SECY) papers. Release of this information could result in disciplinary or other adverse action (see Management Directive (MD) 3.4, "Release of Information to the Public").

C. Ethics and Financial Disclosure Rules

1. Regulations issued by the U.S. Office of Government Ethics on Governmentwide standards of conduct, ethics training, and financial disclosure apply to advisory committee members appointed through the personnel process, unless specifically excluded. Advisory committee members who are not appointed through the personnel process should contact OGC to inquire whether such regulations apply to them. The applicability of individual regulations may vary, depending on the member's status as a regular or a special Government employee (see MD 7.5, "Ethics Counseling and Training").
2. In addition, advisory committee members are subject to the criminal conflict-of-interest laws and Receipt and Disposition of the Foreign Gifts and Decorations statute. The NRC supplemental conduct regulations prohibiting ownership of securities issued by certain nuclear entities apply to members of the ACRS.
3. Advisory committee members who are appointed as special Government employees are required to file a financial disclosure report upon appointment and annually thereafter.
4. Advisory committee members who have questions regarding the ethics laws and regulations should seek advice from an OGC ethics counselor.

D. Political Activity

Advisory committee members are subject to Hatch Act restrictions while in an active duty status.

E. Security Clearance

Advisory committee members whose services are obtained through the appointment process are subject to the security clearance requirements applicable to all employees (see MD 12.3, "NRC Personnel Security Program").

F. Advance Planning

Advance planning and adequate lead time before assuming advisory committee membership are highly important as appointees may not report for duty or receive pay or reimbursements until the security clearance, the conflict-of-interest determination, and other appointment processes are completed.

G. Appointments and Tours of Duty

Advisory committee members are generally appointed under member appointments with an intermittent tour of duty for such time as the Commission determines, except that each member of the ACRS is appointed for a 4-year term. Each member of the ACMUI also is appointed to a 4-year term and, with the Office of Federal and State Materials and Environmental Management Programs' (FSME) approval, may serve up to a maximum of two consecutive terms. ACMUI members may serve additional consecutive terms with Commission approval.

H. Termination of Appointments

1. When an advisory committee member resigns, or when the Commission decides to terminate, or not renew, the member's appointment, the cognizant office should submit a Standard Form (SF) 52 to OCHCO to initiate the action.
2. Advisory committee members who must file an SF 278, "Executive Branch Personnel Public Financial Disclosure Report," must file that report within 30 days of the date of termination.
3. OCHCO will notify the Division of Facilities and Security (DFS), Office of Administration (ADM), and OGC when the member's appointment terminates so that DFS can terminate the individual's security clearance and OGC can determine whether a termination financial disclosure report is required and provide any necessary ethics advice.

I. Pay

1. Rates of pay will be set to correspond to the level of duties to be performed as determined by agency benchmarks, the individual's qualifications, and the rates paid for similar services from other sources. Direct compensation will not exceed Level IV of the Executive Schedule. NRC may accept the gratuitous service of an advisory committee member when the agreement to serve without compensation is made before the appointment.

2. Most advisory committee members appointed under member appointments are paid in the same manner as consultants and experts as described in MD 10.6, "Use of Consultants and Experts," Part II(D) of the handbook. Therefore, that handbook should be consulted for guidance regarding payment for the services of advisory committee members. For those rare instances in which advisory committee members are not paid in the same manner as consultants, MD 10.41, "Pay Administration," should be consulted for guidance regarding pay.

J. Miscellaneous Expenses

1. Entitlement to miscellaneous expenses is limited to advisory members appointed under the authority of Section 29, Atomic Energy Act, as amended. While engaged in advisory committee work, ACRS members are entitled to receive, in addition to their per diem compensation, their necessary travel and certain other work-related expenses (see Section I.K of this handbook).
2. When it becomes necessary for advisory committee members to obtain goods and services in support of committee business, the primary source for obtaining such goods and services, particularly computer services and equipment, should be the NRC. When it is not feasible or cost-effective to obtain goods and services through NRC sources, advisory committee members will ensure that all expenditures for goods and services necessary for performing committee duties are reasonable and customary. Reimbursement for use of the personal residence of advisory committee members as office space for committee business will not be approved, nor will the hiring of, or contracting with, family members to furnish goods or services for committee-related work.
3. Justification for requests to incur any real or property expense must be submitted in writing to the Associate Director for Space Consolidation (ADSC), ADM, who will approve requests on a case-by-case basis.
4. Prior written approval of the ADSC, the Director of the Division of Contracts (DC), or the Director of the Division of Administrative Services (DAS), ADM, as appropriate, is required for the following expenditures:
 - (a) Lease or rental of commercial office space for committee business use.
Requests should include the proposed lease or rental rate and the member's assessment of the reasonableness of the proposed costs, along with the basis for that assessment.
 - (b) Clerical and other administrative assistance.

- (c) Purchase of any one item of equipment in excess of \$500. The approval will be based on the need for the equipment and whether it would be more cost-effective to transfer property from NRC stock or for the NRC to procure it directly. All equipment will be appropriately tagged and entered into the NRC property inventory system.
 - (d) Acquisition of personal computers. This approval requires the concurrence of the Director of the Office of Information Services (OIS), or his or her designee, and the office director (including the Executive Director of the ACRS) or the regional administrator under whose authority the advisory committee is organizationally located. OIS will issue guidelines to advisory committee members regarding the appropriate computer hardware and software necessary for the performance of committee business.
 - (e) As special Government employees, ACRS and ACMUI members are informed of the proper use of the Internet when using Government-furnished equipment upon initial hire. Members are cautioned against using any Government-furnished office equipment or services (including Internet and e-mail) for activities that are inappropriate. (Regarding inappropriate personal uses, see, for example, MD 2.7, "Personal Use of Information Technology," Part D of the handbook).
 - (f) In addition, ADSC will arrange for the leasing of office space when necessary for work by committee members outside NRC facilities.
5. Within the constraints listed above, when advisory committee members need specialized goods or services to accomplish committee work at sites other than NRC office spaces, the Director of DC will provide those authorized members, or other designated NRC staff, with such goods or services or with Government purchase cards and the necessary guidance in the use of those cards. Advisory committee members will receive training by DC personnel before DC issues them a purchase card. Advisory committee members are authorized and encouraged to use these Government purchase cards to purchase goods and services not provided directly by the NRC, including, but not limited to, computer hardware and software (consistent with OIS guidelines); other office equipment, including fax machines and copiers; and expendable supplies. For specialized requirements that cannot be satisfied under the restrictions applicable to the purchase card, ADSC will work with the member or other designated staff to procure the goods or services.
6. Purchase card purchases are limited to \$3000 per purchase and must be conducted in accordance with the guidelines contained in the NRC's "Purchase Card Handbook," a

copy of which is attached to each ACRS member's letter of appointment and available at <http://www.internal.nrc.gov/ADM/contracts/purchasecard.html>.

7. To cover the costs of items not available through use of the purchase card, such as storage space for bulk documents, telecommunications, technical publications, registration fees for professional society meetings, and training, members may submit SF 1034, "Public Voucher for Purchases and Services Other Than Personal," or travel vouchers, as appropriate, for reimbursement. SF 1034 also may be used in lieu of the purchase card by a member who will generally make only a few purchases a year.
8. On or before September 30 of each year, the cognizant property custodian will forward to each advisory committee member a list describing all NRC equipment in the member's custody. The member will be asked to update and annotate the list for accuracy and return the revised list to the property custodian.
9. At a member's request, NRC may establish direct contractual arrangements between NRC and the ACRS or ACMUI member's non-Government employers to cover the expenses related to a member's use of the non-Government employer's office space or services for advisory committee work.
10. ACRS and ACMUI members should obtain information regarding the procedures associated with these requirements from the Chief of the Operations Support Branch, ACRS.

K. Travel Expenses

Travel expenses are paid in accordance with MD 14.1, "Official Temporary Duty Travel," and the Federal Travel Regulation.