

section that is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart F—Procedures

§ 5.600 Notice of covered programs.

Within 60 days of September 29, 2000, each Federal agency that awards Federal financial assistance shall publish in the FEDERAL REGISTER a notice of the programs covered by these Title IX regulations. Each such Federal agency shall periodically republish the notice of covered programs to reflect changes in covered programs. Copies of this notice also shall be made available upon request to the Federal agency's office that enforces Title IX.

§ 5.605 Enforcement procedures.

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) ("Title VI") are hereby adopted and applied to these Title IX regulations. These procedures may be found at 10 CFR 4.21 through 4.75.

[65 FR 52875, Aug. 30, 2000]

APPENDIX A TO PART 5—LIST OF FEDERAL FINANCIAL ASSISTANCE ADMINISTERED BY THE NUCLEAR REGULATORY COMMISSION TO WHICH TITLE IX APPLIES

NOTE: All recipients of Federal financial assistance from NRC are subject to Title IX, but Title IX's anti-discrimination prohibitions are limited to the educational components of the recipient's program or activity, if any. Failure to list a type of Federal assistance below shall not mean, if Title IX is otherwise applicable, that a program or activity is not covered by Title IX.

(a) *Conferences on regulatory programs and related matters.* Agreements for financial assistance to State and local officials, without full-cost recovery, to confer on regulatory programs and related matters at NRC facilities and offices, or other locations.

(b) *Orientations and instruction.* Agreements for financial assistance to State and local of-

ficials, without full-cost recovery, to receive orientation and on-the-job instruction at NRC facilities and offices, or other locations.

(c) *Technical training courses.* Agreements for financial assistance to State and local officials, without full-cost recovery to attend training on nuclear material licensing, inspection and emergency response regulatory responsibilities to ensure compatibility between NRC and Agreement State regulation.

(d) *Participation in meetings and conferences.* Agreements for participation, without full-cost recovery, in meetings, conferences, workshops, and symposia to assist scientific, professional or educational institutions or groups.

(e) *Research support.* Agreements for the financial support of basic and applied scientific research and for the exchanges of scientific information.

[66 FR 709, Jan. 4, 2001]

PART 7—ADVISORY COMMITTEES

Sec.

- 7.1 Policy.
- 7.2 Definitions.
- 7.3 Interpretations.
- 7.4 Establishment of advisory committees.
- 7.5 Review of establishment of advisory committees by GSA Secretariat; Advisory committee charters.
- 7.6 Amendments to advisory committee charters.
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- 7.10 The NRC Advisory Committee Management Officer.
- 7.11 The Designated Federal Officer.
- 7.12 Public participation in and public notice of advisory committee meetings.
- 7.13 Minutes of advisory committee meetings.
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- 7.15 Procedures for closing an NRC advisory committee meeting.
- 7.16 Annual comprehensive review.
- 7.17 Reports required for advisory committees.
- 7.18 Compensation and expense reimbursement of advisory committee members, staffs, and consultants.
- 7.19 Handicapped members of advisory committees.
- 7.20 Conflict of interest reviews of advisory committee members' outside interests.
- 7.21 Costs of duplication of documents.
- 7.22 Fiscal and administrative responsibilities.

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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); Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App.).

SOURCE: 54 FR 26948, June 27, 1989, unless otherwise noted.

§ 7.1 Policy.

The regulations in this part define the policies and procedures to be followed by the Nuclear Regulatory Commission in the establishment, utilization, and termination of advisory committees. In general, it is the policy of the Commission that—

(a) Except where there is express legal authority to the contrary, the function of NRC advisory committees shall be advisory only.

(b) Each NRC advisory committee shall function in compliance with the Federal Advisory Committee Act and this part.

(c) The number of NRC advisory committees shall be kept to the minimum necessary, and the number of members of each NRC advisory committee shall be limited to the fewest necessary to accomplish committee objectives.

(d) An NRC advisory committee shall be established only when establishment of the committee is required by law or when the Commission determines that the committee is essential to the conduct of NRC business. In making such a determination, the Commission shall consider whether committee deliberations will result in a significant contribution to the creation, amendment, or elimination of regulations, guidelines, or rules affecting NRC business; whether the information to be obtained is available through another source within the Federal Government; whether the committee will make recommendations resulting in significant improvements in service or reductions in cost; or whether the committee's recommendations will provide an important additional perspective or viewpoint relating to NRC's mission.

(e) Except where otherwise required by law, an NRC advisory committee shall be terminated whenever the stated objectives of the committee have been accomplished, the subject matter or work of the committee has become obsolete, the committee's main functions have been assumed by another

entity within the Federal Government, or the cost of operating the committee has become excessive in relation to the benefits accruing to the Federal Government from its activities.

(f) NRC advisory committees shall be balanced in their membership in terms of the points of view represented and the functions to be performed.

(g) The Congress shall be kept informed of the number, purpose, membership, activities, and cost of NRC advisory committees.

(h) NRC advisory committee meetings shall be open to the public, except where closure is determined to be justified under § 7.15.

§ 7.2 Definitions.

As used in this part:

(a) *Act* means the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

(b) *Administrator* means the Administrator of General Services.

(c)(1) *Advisory committee* means any committee, board, commission, council, conference, panel, task force, or similar group, or any subcommittee or other subgroup thereof, that is established by statute for the purpose of providing advice or recommendations on issues of policy to an official, branch, or agency of the Federal Government, or that is established or utilized by the President or any agency official to obtain advice or recommendations on issues or policies that fall within the scope of his or her responsibilities; except that the term "advisory committee" shall not include the groups listed in paragraph (c)(3) of this section.

(2) For purposes of the definition of "advisory committee" in paragraph (c)(1) of this section, a group shall be considered to be "utilized by the President or any agency official to obtain advice or recommendations on issues or policies that fall within the scope of his or her responsibilities" if (i) the group is composed in whole or in part of other than full-time officers or employees of the Federal Government, (ii) the group has an established existence outside the agency seeking the advice, (iii) the group is a preferred source from which to obtain advice or recommendations on a specific issue or

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policy within the scope of the President's or agency official's responsibilities, and (iv) such advice or recommendations are obtained in the same manner as advice or recommendations obtained from established advisory committees.

(3) The following advisory meetings or groups are not included in the definition of "advisory committee" in paragraph (c)(1) of this section:

(i) Any group composed wholly of full-time officers or employees of the Federal Government;

(ii) Any group specifically exempted from the Act or these regulations by an Act of Congress;

(iii) 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 any State or local government unit or an official thereof;

(iv) Any group that performs primarily operational functions specifically provided by law, as opposed to advisory functions;

(v) Any meeting initiated by the President or one or more Federal officials for the purpose of obtaining advice or recommendations from one individual;

(vi) Any meeting that is initiated by a Federal official and that is held with more than one individual for the purpose of obtaining the advice of individual attendees and not for the purpose of utilizing the group to obtain consensus advice or recommendations, except where the agency accepts the group's deliberations as a source of consensus advice or recommendations;

(vii) Any meeting initiated by a group with the President or one or more Federal officials for the purpose of expressing the group's view, provided that the President or Federal official does not use the group recurrently as a preferred source of advice or recommendations;

(viii) Any meeting of two or more advisory committee members convened solely to gather information or conduct research for a chartered advisory committee to analyze relevant issues and facts for a chartered advisory com-

mittee, or to draft proposed position papers for deliberation by a chartered advisory committee; and

(ix) Any meeting with a group initiated by the President or by one or more Federal officials for the purpose of exchanging facts or information.

(d) *Agency* means an agency of the Government of the United States as defined in 5 U.S.C. 551(1).

(e) *Commission* means the Nuclear Regulatory Commission of five members, or a quorum thereof, sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974, 42 U.S.C. 5841 (88 Stat. 1242).

(f) *Committee member* means an individual who is appointed to serve on an advisory committee and has the full right and obligation to participate in the activities of the committee, including voting on committee recommendations.

(g) *Designated Federal Official* means a government employee appointed, pursuant to §7.11(a), to chair or attend each meeting of an NRC advisory committee to which he or she is assigned.

(h) *GSA* means the General Services Administration.

(i) *NRC* means the agency established by title II of the Energy Reorganization Act of 1974, 42 U.S.C. 5801 (88 Stat. 1233), and known as the Nuclear Regulatory Commission.

(j) *NRC Advisory Committee Management Officer* means the individual appointed, pursuant to §7.10(a), to supervise and control the establishment and management of NRC advisory committees.

(k) *NRC Public Document Room* means the Public Document Room maintained by the NRC at 2120 L Street, NW., Washington, DC.

(l) *Presidential advisory committee* means an advisory committee that advises the President.

(m) *GSA Secretariat* means the Committee Management Secretariat of the General Services Administration, which was established pursuant to the Act.

(n) *Staff member* means any individual who serves in a support capacity to an advisory committee.

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§ 7.3 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an NRC officer or employee, other than a written interpretation by the General Counsel, shall be binding upon the Commission.

§ 7.4 Establishment of advisory committees.

(a) An NRC advisory committee may be established under this part only if its establishment—

(1) Is specifically directed or authorized by statute or by Executive Order of the President; or

(2) Has been determined by the Commission to be in the public interest and essential to the performance of the duties imposed on the Commission by law.

The determination required by paragraph (a)(2) of this section shall be a matter of formal record, and shall include a statement of a clearly defined purpose for the advisory committee.

§ 7.5 Review of establishment of advisory committees by GSA Secretariat; Advisory committee charters.

(a) Whenever the NRC proposes to establish or utilize an advisory committee, a letter requesting review of the proposal and transmitting a proposed charter for the committee shall be submitted to the GSA Secretariat by the Commission. The letter shall contain the following information:

(1) An explanation of why the committee is essential to the conduct of NRC business and is in the public interest;

(2) An explanation of why the committee's functions cannot be performed by NRC, another existing NRC advisory committee, or other means (such as a public hearing); and

(3) A description of NRC's plan to attain balanced membership on the committee.

For purposes of attaining balance in an NRC advisory committee's membership, the Commission shall consider for membership interested persons and groups with professional, technical, or personal qualifications or experience to

contribute to the functions and tasks to be performed.

(b) Each proposed committee charter submitted for review pursuant to paragraph (a) of this section shall contain the following information:

(1) The committee's official designation;

(2) The committee's objectives and the scope of its activity;

(3) The period of time necessary for the committee to carry out its purposes;

(4) The NRC official to whom the committee will report;

(5) The NRC office responsible for providing support for the committee;

(6) A description of the duties for which the committee will be responsible, and if such duties are not solely advisory, a specification of the authority for the functions that are not advisory;

(7) The estimated annual operating costs, in dollars and man-years, for the committee;

(8) The estimated number and frequency of committee meetings; and

(9) The committee's termination date, if less than two years from the date of the committee's establishment.

The date the charter is filed pursuant to § 7.8 shall be added to the charter when such filing takes place.

(c)(1) A subcommittee that does not function independently of its parent advisory committee shall be subject to the requirements of this part, except that it shall not be subject to the requirements of paragraphs (a) and (b) of this section. Such a subcommittee shall not, however, be subject to the requirements of this part with respect to any meeting of its members devoted solely to a function described in § 7.2(c)(3)(viii).

(2) The requirements of this part, including the requirements of paragraphs (a) and (b) of this section, shall apply to any subcommittee that functions independently of the parent advisory committee (such as by making recommendations directly to the agency rather than to the parent advisory committee), regardless of whether the subcommittee's members are drawn in whole or in part from the parent advisory committee.

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(d) After the GSA Secretariat has notified the Commission of the results of its review of a proposal to establish or utilize an NRC advisory committee, submitted pursuant to paragraph (a) of this section, the Commission shall notify the GSA Secretariat in writing whether the advisory committee is actually being established. Filing of the advisory committee charter pursuant to § 7.8 shall be deemed to fulfill this notification requirement. If the advisory committee is not being established, the Commission shall so advise the GSA Secretariat in writing, stating whether NRC intends to take any further action with respect to the proposed advisory committee.

(e) The date of filing of an advisory committee charter pursuant to § 7.8 shall appear on the face of the charter and shall constitute the date of establishment, renewal, or reestablishment of the committee.

§ 7.6 Amendments to advisory committee charters.

(a) Final authority for amending the charter of an NRC advisory committee established or utilized by the NRC is vested in the Commission.

(b) Any proposed minor technical changes made to a current charter for an NRC advisory committee whose establishment is required or authorized by statute or by Executive Order of the President shall be coordinated with the General Counsel to ensure that they are consistent with the applicable statute or Executive Order. When the statute or Executive Order that directed or authorized the establishment of an advisory committee is amended to change the language that has been the basis for establishing the advisory committee, those sections of the current charter affected by the statute or Executive Order shall also be amended, and the amended charter shall be filed as specified in § 7.8.

(c)(1) The charter of an NRC advisory committee established under general agency authority may be amended when the Commission determines that the existing charter no longer reflects the objectives or functions of the committee. Such changes may be minor (such as revising the name of the advisory committee or modifying the esti-

mated number or frequency of meetings), or they may be major (such as revising the objectives or composition of the committee). The procedures specified in paragraph (b) of this section shall be used in the case of charter amendments involving minor changes.

(2) In the case of a major amendment to the charter of an advisory committee established under general agency authority, a letter requesting review of the proposed amendment and transmitting the proposed amended charter shall be submitted to the GSA Secretariat. The letter shall explain the purpose of the changes and why they are necessary.

(3) A committee charter that has been amended pursuant to this paragraph is subject to the filing requirements set forth in § 7.8.

(4) Amendment of an existing advisory committee charter pursuant to this paragraph does not constitute renewal of the committee for purposes of § 7.7.

§ 7.7 Termination, renewal, and rechartering of advisory committees.

(a) Except as provided in paragraph (b)(1) of this section, each NRC advisory committee shall terminate two years after it is established, reestablished, or renewed, unless—

(1) It has been terminated sooner;

(2) It has been renewed or reestablished before the end of such period in accordance with the procedures set forth in paragraph (b) of this section; or

(3) Its duration has been otherwise designated by law.

The NRC Committee Management Officer shall notify the GSA Secretariat in writing of the effective date of termination of any advisory committee that has been terminated by the NRC.

(b)(1) An NRC advisory committee that is established by statute shall require rechartering by the filing of a new charter every 2 years after the date of enactment of the statute establishing the committee. If a new charter is not filed, the committee is not terminated, but it may not meet or take any actions.

(2) Any other NRC advisory committee may be renewed, provided that

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such renewal is carried out in compliance with the procedures set forth in § 7.5 at least 30 and not more than 60 days before the committee would otherwise terminate; except that an advisory committee established by the President may be renewed by appropriate action of the President and the filing of a new charter. Renewal of an NRC advisory committee shall not be deemed to terminate the appointment of any committee member who was previously appointed to serve on the committee.

§ 7.8 Charter filing requirements.

(a) Except as provided in paragraph (b) of this section, an NRC advisory committee may not operate, meet, or take any action unless a copy of the committee's charter has been filed with (1) the Committee on Environment and Public Works of the United States Senate, and the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce of the United States House of Representatives; (2) the Library of Congress, Exchange and Gift Division, Federal Documents Section, Federal Advisory Committee Desk, Washington, DC 20540; and (3) the GSA Secretariat. The copy filed with the GSA Secretariat shall indicate the Congressional filing date.

(b) When either the President or the Congress establishes an advisory committee that advises the President and for which NRC is responsible, the Commission shall—

(1) File the committee's charter with the GSA Secretariat;

(2) File a copy of the committee's charter with the Library of Congress at the address listed in paragraph (a) of this section; and

(3) If specifically directed by law, file with the Congressional Committees listed in paragraph (a) of this section a copy of the charter that shows its date of filing with the GSA Secretariat.

(c) For purposes of the filing requirements established by this section, the filing date of an advisory committee charter shall be the date on which the charter, or a copy of the charter where appropriate, is offered for filing at the office in which it is required to be filed (in the case of hand delivery), or on

which it is deposited in the mail (in the case of delivery by mail).

(d) The charter filing requirements established by this section are subject to the public notice requirements of § 7.9.

§ 7.9 Public notice of advisory committee establishment, reestablishment, or renewal.

(a) After the Commission has received the GSA Secretariat's response to a request (in accordance with § 7.5) for review of a proposal to establish, reestablish, renew, or utilize an NRC advisory committee, the Commission shall publish a notice in the FEDERAL REGISTER that the committee is being established, reestablished, renewed, or utilized. In the case of a new committee, the notice shall also describe the nature and purpose of the committee and shall include a statement that the committee is necessary and in the public interest. This notice requirement does not apply to any committee whose establishment is required by statute or which is established by Executive Order of the President.

(b) Notices required to be published pursuant to paragraph (a) of this section shall be published at least 15 calendar days before the committee charter is filed pursuant to § 7.8, except that the GSA Secretariat may approve less than 15 days for good cause shown. The 15-day advance notice requirement does not apply to committee renewals, notices of which may be published concurrently with the filing of the charter.

§ 7.10 The NRC Advisory Committee Management Officer.

(a) The Chairman of the Commission shall appoint an NRC Advisory Committee Management Officer to carry out the functions specified in paragraph (b) of this section.

(b) The NRC Advisory Committee Management Officer shall—

(1) Carry out all responsibilities relating to NRC advisory committees delegated to such officer by the Commission;

(2) Ensure that administrative guidelines and management controls are issued that apply to all NRC advisory committees;

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(3) Exercise control and supervision over the establishment, procedures, and accomplishments of NRC advisory committees;

(4) Assemble and maintain the reports, records, and other papers of any such committee during this existence;

(5) Carry out, on behalf of NRC, the provisions of the Freedom of Information Act (5 U.S.C. 552) and NRC's Freedom of Information Act Regulations (10 CFR part 9, subpart A) with respect to such reports, records, and other papers;

(6) Ensure that, subject to the Freedom of Information Act and NRC's Freedom of Information Act regulations at 10 CFR part 9, subpart A, copies of the records, reports, transcript minutes, appendices, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by each NRC advisory committee are available for public inspection and copying at the NRC Web site <http://www.nrc.gov>, and/or at the NRC Public Document Room, until the advisory committee ceases to exist.

(7) Ensure that, subject to the Freedom of Information Act and NRC's Freedom of Information Act Regulations, at least eight copies of each report made by each NRC advisory committee and, where appropriate, background papers prepared by consultants, shall be filed with the Library of Congress;

(8) Ensure that NRC keeps such records as will fully disclose the disposition of any funds that may be at the disposal of NRC advisory committees and the nature and extent of their activities; and

(9) Ensure that NRC keeps such other records and provides such support services as are required by §7.22.

(c) For purposes of paragraph (b) of this section, the term "records" includes (but is not limited to):

(1) A set of approved charters and membership lists for each NRC advisory committee;

(2) Copies of NRC's portion of the President's annual report to the Congress on Federal advisory committees required by section 6(c) of the Act;

(3) NRC guidelines on committee management operations and procedures as maintained and updated; and

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(4) NRC determinations to close advisory committee meetings made pursuant to §7.15.

[54 FR 26948, June 27, 1989; 54 FR 28554, July 6, 1989; 54 FR 31646, Aug. 1, 1989; 64 FR 48949, Sept. 9, 1999]

§7.11 The Designated Federal Officer.

(a) The Chairman of the Commission shall appoint a Designated Federal Officer for each NRC advisory committee and its subcommittees. The individual holding this position must be employed by the Federal Government on either a full-time or a permanent part-time basis.

(b) All meetings of an NRC advisory committee must be convened or approved by the committee's Designated Federal Officer, and the agenda for each committee meeting (except a meeting of a Presidential advisory committee) must be approved by that individual.

(c) An NRC advisory committee may not hold a meeting in the absence of its Designated Federal Officer.

(d) It shall also be the responsibility of the Designated Federal Officer to—

(1) Attend all meetings of the committee for which he or she has been appointed;

(2) Adjourn the meetings of the committee when such adjournment is in the public interest;

(3) Chair the meetings of the committee when so directed by the Commission;

(4) Ensure compliance with the requirements of §7.13 regarding minutes of meetings of the committee; and

(5) Make copies of committee documents required to be maintained for public inspection and copying pursuant to §7.14(b) available at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room.

[54 FR 26948, June 27, 1989; 54 FR 28554, July 6, 1989, as amended at 64 FR 48950, Sept. 9, 1999]

§7.12 Public participation in and public notice of advisory committee meetings.

(a) Each meeting of an NRC advisory committee shall be held at a reasonable time and in a place reasonably accessible to the public. The size of the

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meeting room must be sufficient to accommodate advisory committee members, committee or agency staff, and interested members of the public; except that, the provisions of this paragraph shall not apply where an entire NRC advisory committee meeting has been closed pursuant to § 7.15.

(b) Any member of the public who wishes to do so shall be permitted to file a written statement with an NRC advisory committee regarding any matter discussed at a meeting of the committee. The committee chairman may also permit members of the public to speak at meetings of the committee in accordance with procedures established by the committee.

(c) Except when the President or his designee determines in writing that no notice should be published for reasons of national security, at least 15 days prior to an NRC advisory committee meeting, a notice that includes the following information shall be published in the FEDERAL REGISTER:

- (1) The exact name of the advisory committee as chartered;
- (2) The time, date, place, and purpose of the meeting;
- (3) A summary of the agenda of the meeting; and
- (4) Whether all or part of the meeting is open to the public.

If any part of the meeting is closed, the notice shall provide the reasons for the closure, citing the specific matter that has been determined to justify the closure under § 7.15.

(d) In exceptional circumstances, less than 15 days notice of an advisory committee meeting may be given, provided that there is as much prior notice as possible and the reasons for the shorter time are included in the committee meeting notice published in the FEDERAL REGISTER.

(e) In addition to notice required by paragraph (c) of this section, the NRC may also use other forms of notice, such as public releases and notice by mail, to inform the public of advisory committee meetings. To that end, the Designated Federal Officer of each NRC advisory committee will, to the extent practicable, maintain lists of people and organizations interested in that advisory committee and notify them of meetings by mail.

§ 7.13 Minutes of advisory committee meetings.

(a) Detailed minutes shall be kept of each NRC advisory committee meeting. The minutes shall include the following information:

- (1) The time, date, and place of the meeting;
- (2) A list of the attendees at the meeting who are advisory committee members or staff, agency employees, or members of the public who presented oral or written statements;
- (3) An estimate of the number of other members of the public who were present;
- (4) The extent of public participation; and
- (5) An accurate description of each matter discussed during the meeting and its resolution, if any, by the committee.

(b) The minutes of an NRC advisory committee meeting shall include a copy of each report or other document received, issued, or approved by the committee in connection with the meeting. If it is impracticable to attach a document to the minutes, the minutes shall describe the document in sufficient detail to permit it to be identified readily.

(c) The chairperson of an NRC advisory committee shall certify to the accuracy of the minutes of each of the committee's meetings. In the case of a subgroup of an advisory committee, the chairperson of the subgroup shall certify to the accuracy of the minutes.

(d) A verbatim transcript of an advisory committee meeting may be substituted for minutes required by this section, providing that the use of such a transcript is in accordance with the requirements of paragraphs (a), (b), and (c) of this section.

§ 7.14 Public information on advisory committees.

(a) The Nuclear Regulatory Commission shall maintain systematic information on the nature, functions, and operations of each NRC advisory committee. A complete set of the charters of NRC advisory committees and copies of the annual reports required by § 7.17(a) will be maintained for public inspection at either the NRC Web site,

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<http://www.nrc.gov>; and/or at the NRC Public Document Room.

(b) Subject to the provisions of the Freedom of Information Act (5 U.S.C. 552) and NRC's Freedom of Information Act regulations at 10 CFR part 9, subpart A, copies of NRC advisory committees' records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, and other documents shall be maintained for public inspection and copying at the NRC Web site, <http://www.nrc.gov>; and/or at the NRC Public Document Room.

[64 FR 48950, Sept. 9, 1999]

§ 7.15 Procedures for closing an NRC advisory committee meeting.

(a) To close all or part of a meeting of an NRC advisory committee, the committee shall submit a written request for closure to the Chairman of the Commission, citing specific matter listed in the Government in the Sunshine Act (5 U.S.C. 552b), as implemented by 10 CFR 9.104, to justify the closure. The request shall provide the Chairman sufficient time for review in order to make a determination prior to publication of the meeting notice pursuant to § 7.12.

(b) The General Counsel shall review all requests to close meetings of NRC advisory committees.

(c) If the Chairman of the Commission agrees that the request is consistent with the policies of this part, a determination shall be issued in writing that all or part of the meeting will be closed. The determination shall include a statement of the reasons for the closing.

(d) Except when the President or his designee determines in writing that no notice should be published for reasons of national security, the Chairman of the Commission shall make a copy of the determination to close all or part of an NRC advisory committee meeting available to the public upon request, and shall state the reasons why all or part of the meeting is closed, citing the specific matter listed in the Government in the Sunshine Act (as implemented by 10 CFR 9.104) in the meeting notice published in the FEDERAL REGISTER pursuant to § 7.12.

(e) The Chairman of the Commission may delegate the Chairman's functions

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under paragraphs (c) and (d) of this section to such officer of the Commission as the Chairman considers appropriate. The General Counsel shall review any determination to close a meeting made by a delegate.

§ 7.16 Annual comprehensive review.

(a) The Chairman of the Commission shall conduct an annual comprehensive review of the activities and responsibilities of each NRC advisory committee to determine whether the committee—

(1) Is carrying out its purposes or, consistent with the provisions of applicable statutes, its responsibilities should be revised.

(2) Should be merged with another advisory committee.

(3) Should be terminated.

(b) The comprehensive review required by paragraph (a) of this section shall include consideration of such information regarding the committee as is required for the Commission's annual report to the GSA Secretariat pursuant to § 7.27(a) and such other information as may be requested from the Committee by the NRC Advisory Committee Management Officer. The results of such review shall be included in the annual report to the GSA Secretariat.

(c) If, as a result of the review required by this section, the Commission determines that an advisory committee is no longer needed, the committee shall be terminated; except that in the case of an advisory committee established by an Act of Congress or the President, the committee's termination shall be recommended to the President or the Congress, as the case may be.

§ 7.17 Reports required for advisory committees.

(a) The Commission shall furnish a report on the activities of NRC advisory committees annually to the Administrator and the GSA Secretariat on a fiscal year basis. The report must contain information regarding NRC advisory committees required by Section 6(c) of the Act for the President's annual report to the Congress and be consistent with instructions provided by the GSA Secretariat. A copy of the report is made available at the NRC Web

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site, <http://www.nrc.gov>, and/or at the NRC Public Document Room.

(b) Any NRC advisory committee holding closed meetings shall issue a report, at least annually, setting forth a summary of its activities consistent with the policy of the Government in the Sunshine Act (5 U.S.C. 552b), as implemented by 10 CFR 9.104. A copy of the report is made available at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room.

(c) Subject to the Freedom of Information Act (5 U.S.C. 552) and NRC's Freedom of Information Act Regulations (10 CFR part 9, subpart A), eight copies of each report made by an advisory committee, including any report on closed meetings pursuant to paragraph (b) of this section, and, where appropriate, background papers prepared by consultants, shall be filed for public inspection and use with the Library of Congress, Exchange and Gift Division, Federal Documents Section, Federal Advisory Committee Desk, Washington, DC 20540.

[54 FR 26948, June 27, 1989, as amended at 64 FR 48950, Sept. 9, 1999]

§ 7.18 Compensation and expense reimbursement of advisory committee members, staffs, and consultants.

(a) Except where otherwise provided by law, the Commission may accept the gratuitous services of an NRC advisory committee member, staff member, or consultant who agrees in advance to serve without compensation.

(b)(1) Subject to the provisions of paragraph (b)(2) of this section, if the Commission determines that compensation of a member of an NRC advisory committee is appropriate, the amount that will be paid shall be fixed by the Chairman of the Commission at a rate that is the daily equivalent of a rate of NRC's General Salary Schedule, unless the member is appointed as a consultant and compensated at a rate applicable to NRC consultants. (See NRC Manual for NRC's General Salary Schedule and rates applicable to NRC consultants.)

(2) In determining an appropriate rate of pay for a member of an NRC advisory committee, the Chairman of the Commission shall give consideration to the significance, scope, and technical

complexity of the matters with which the advisory committee is concerned and the qualifications required of the committee member; provided that the Chairman may not set the rate of pay for an NRC advisory committee member higher than the daily equivalent of the maximum rate for a GG-15 under NRC's General Salary Schedule, unless a higher rate is mandated by statute or the Commission itself has determined that a higher rate is justified and necessary. The Commission may not delegate the responsibility for making a determination that such a higher rate of pay is necessary and justified for an NRC advisory committee member, and such a determination must be reviewed annually.

(3) An advisory committee member may not be paid at a rate higher than the daily equivalent of the maximum rate for a GG-18 under NRC's General Salary Schedule.

(c)(1) Each NRC advisory committee staff member may be paid at a rate that is the daily equivalent of a rate of NRC's General Salary Schedule in which the staff member's position would appropriately be placed.

(2) A staff member of an NRC advisory committee may not be paid at a rate higher than the daily equivalent of the maximum rate for a GG-15 under NRC's General Salary Schedule, unless the Chairman of the Commission determines that the staff member's position would appropriately be placed at a grade higher than GG-15; provided that in establishing rates of compensation, the Chairman shall comply with any applicable statutes, regulations, Executive Orders, and administrative guidelines.

(3) A determination to set the rate of pay of a staff position at a grade higher than GG-15 under the NRC's General Salary Schedule rate of pay shall be reviewed annually by the Chairman of the Commission.

(4) A Federal employee may serve as a staff member of an NRC advisory committee only with the knowledge of the Designated Federal Officer for the committee and the approval of the employee's direct supervisor. A staff member who is not otherwise a Federal

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employee shall be appointed in accordance with applicable agency procedures, following consultation with the advisory committee.

(d) The following factors shall be considered in determining an appropriate rate of pay for a consultant to an NRC advisory committee:

(1) The qualifications required of the consultant, and

(2) The significance, scope, and technical complexity of the work for which his services are required;

Provided that the rate of pay for an NRC advisory committee consultant may not be higher than the maximum rate of pay applicable to NRC consultants. In establishing such a rate of pay, NRC shall comply with any applicable statutes, regulations, Executive Orders, and administrative guidelines.

(e) A member or staff member of an NRC advisory committee engaged in the performance of duties away from his or her home or regular place of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703, title 5, United States Code, for persons employed intermittently in the Government service.

(f) Nothing in this section shall—

(1) Prevent any full-time Federal employee who provides services to an NRC advisory committee from receiving compensation at a rate at which he or she would otherwise be compensated as a full-time Federal employee.

(2) Prevent any individual who provides services to an NRC advisory committee, and who immediately before providing such services was a full-time Federal employee, from receiving compensation at a rate at which he or she was compensated as a full-time Federal employee.

(3) Affect a rate of pay or a limitation on a rate of pay that is specifically established by law or a rate of pay established under the NRC's General Salary Schedule and evaluation system (see NRC Manual).

§7.19 Handicapped members of advisory committees.

An NRC advisory committee member who is blind or deaf or otherwise handicapped may be provided services by a personal assistant for handicapped em-

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ployees while performing advisory committee duties, if the member—

(a) Qualifies as a handicapped individual as defined by section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

(b) Does not otherwise qualify for assistance under 5 U.S.C. 3102 by reason of being an employee of NRC.

§7.20 Conflict of interest reviews of advisory committee members' outside interests.

The Designated Federal Officer of each NRC advisory committee and the General Counsel shall review the interests and affiliations of each member of the Designated Federal Officer's advisory committee annually, and upon the commencement and termination of the member's appointment to the committee, for the purpose of ensuring that such appointment is consistent with the laws and regulations on conflict of interest applicable to that member.

§7.21 Cost of duplication of documents.

Copies of the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by an NRC advisory committee shall be made available to any person at the actual cost of duplication prescribed in part 9 of this chapter. (For availability of information on advisory committees, see §7.14.)

§7.22 Fiscal and administrative responsibilities.

(a) The Office of the Chief Financial Officer shall keep such records as will fully disclose the disposition of any funds that may be at the disposal of NRC advisory committees.

(b) The Office of the Chief Information Officer shall keep such records as will fully disclose the nature and extent of activities of NRC advisory committees.

(c) NRC shall provide support services (including staff support and meeting space) for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to another agency

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in addition to NRC, only one agency shall be responsible for support services at any one time, and the establishing authority shall designate the agency responsible for providing such services.

[54 FR 26948, June 27, 1989, as amended at 63 FR 15742, Apr. 1, 1998]

PART 8—INTERPRETATIONS

Sec.

- 8.1 Interpretation of section 152 of the Atomic Energy Act of 1954; opinion of the General Counsel.
- 8.2 Interpretation of Price-Anderson Act, section 170 of the Atomic Energy Act of 1954.
- 8.3 [Reserved]
- 8.4 Interpretation by the General Counsel: AEC jurisdiction over nuclear facilities and materials under the Atomic Energy Act.
- 8.5 Interpretation by the General Counsel of § 73.55 of this chapter; illumination and physical search requirements.

AUTHORITY: Secs. 152, 161, 68 Stat. 944, 948, as amended; 42 U.S.C. 2182, 2201.

§ 8.1 Interpretation of section 152 of the Atomic Energy Act of 1954; opinion of the General Counsel.

(a) Inquiries have been received as to the applicability of the provisions of section 152 of the Atomic Energy Act of 1954 (68 Stat. 944) to inventions or discoveries made or conceived in the course of activities under licenses issued by the Atomic Energy Commission.

(b) In my [General Counsel, U.S. Atomic Energy Commission] opinion a license issued by the Atomic Energy Commission is not a “contract, subcontract, arrangement or other relationship with the Commission” as those terms are used in section 152 of the act. Hence, the mere fact that an invention or discovery is made by a licensee in the course of activities authorized by a license would not give the Commission rights under section 152 with respect to such invention or discovery. On the other hand, if a licensee has entered into a “contract, subcontract, arrangement or other relationship with the Commission,” inventions or discoveries made or conceived by the licensee under the

contract or other relationship would come within the purview of section 152.

(c) As used in this section, “license” means a license issued pursuant to Chapter 6 (Special Nuclear Material), 7 (Source Material), 8 (Byproduct Material) or 10 (Atomic Energy Licenses) of the Atomic Energy Act of 1954, or a construction permit issued pursuant to section 185 of the act.

[21 FR 1414, Mar. 3, 1956]

§ 8.2 Interpretation of Price-Anderson Act, section 170 of the Atomic Energy Act of 1954.

(a) It is my opinion that an indemnity agreement entered into by the Atomic Energy Commission under the authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011, *et seq.*), hereafter cited as “the Act,” as amended by Pub. L. 85-256 (the “Price-Anderson Act”) 42 U.S.C. 2210 indemnifies persons indemnified against public liability for bodily injury, sickness, disease or death, or loss of or damage to property, or for loss of use of property caused outside the United States by a nuclear incident occurring within the United States.

(b) Section 170 authorizes the Commission to indemnify against “public liability” as defined in section 11(u) of the Act.¹ Coverage under the Act therefore is predicated upon “public liability,” and requires (1) “legal liability” for (2) a “nuclear incident.” Determination of the Act’s coverage, therefore, necessitates a finding that these two elements are present.

(c) In the case of damage outside of the United States caused by a nuclear facility based in the United States there would be a “nuclear incident” as

¹Sec. 11u. “The term ‘public liability’ means any legal liability arising out of or resulting from a nuclear incident, except claims under State or Federal Workmen’s Compensation Acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs, and except for claims arising out of an act of war. ‘Public Liability’ also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.”