

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

MD 9.5	ORGANIZATION AND FUNCTIONS, ATOMIC SAFETY AND LICENSING BOARD PANEL	DT-19-11
<i>Volume 9:</i>	NRC Organization and Functions	
<i>Approved By:</i>	Kristine L. Svinicki, Chairman	
<i>Date Approved:</i>	July 25, 2019	
<i>Cert. Date:</i>	N/A, for the latest version of any NRC directive or handbook, see the online MD Catalog .	
<i>Issuing Office:</i>	Atomic Safety and Licensing Board Panel	
<i>Contact Name:</i>	Emily I. Krause	
EXECUTIVE SUMMARY		
<p>Management Directive 9.5 replaces Manual Chapter 0106 and is revised to (1) include appropriate office functions in the handbook, (2) add the Licensing Support Network library coordinator and hearing audio and video support functions to the Atomic Safety and Licensing Board Panel responsibilities, and (3) reflect a change of titles from Deputy Chief Administrative Judge (Executive) to Associate Chief Administrative Judge (Legal) and from Deputy Chief Administrative Judge (Technical) to Associate Chief Administrative Judge (Technical).</p>		

TABLE OF CONTENTS

I. SUPERVISION.....	2
II. FUNCTIONS	2
III. DELEGATION OF AUTHORITY TO THE CHIEF ADMINISTRATIVE JUDGE, THE ASSOCIATE CHIEF ADMINISTRATIVE JUDGE (LEGAL), AND THE ASSOCIATE CHIEF ADMINISTRATIVE JUDGE (TECHNICAL)	2
IV. DELEGATION OF AUTHORITY TO ATOMIC SAFETY AND LICENSING BOARDS AND PRESIDING OFFICERS.....	3
V. REDELEGATION OF AUTHORITY.....	3
VI. REFERENCES.....	3

For updates or revisions to policies contained in this MD that were issued after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

I. SUPERVISION

The Atomic Safety and Licensing Board Panel (the Panel) is under the supervision of the Chief Administrative Judge, who reports to the Commission.

II. FUNCTIONS

Established pursuant to Section 191 of the Atomic Energy Act, the Panel conducts hearings on disputed matters before the U.S. Nuclear Regulatory Commission and performs other regulatory functions authorized by the Commission. Specifically, the Panel—

- A.** Conducts adjudicatory hearings involving (1) nuclear reactor licensing, nuclear materials licensing, or nuclear waste licensing; (2) proceedings contesting NRC staff enforcement actions; (3) disputes concerning employee-related matters, including Program Fraud Civil Remedies Act proceedings; and (4) such other matters as the Commission may authorize.
- B.** Monitors all proposed rules, final rules, and legislation affecting the NRC's adjudicatory hearing process and advises the Commission and other Commission offices when potential problems or issues exist.
- C.** In conjunction with other NRC offices, assists in developing the NRC's electronic adjudicatory docket and developing electronic document filing for adjudicatory hearings.
- D.** Provides mediation and facilitation services for use in adjudicatory proceedings and in such other circumstances as may be requested by the agency.
- E.** Manages the provision of verbatim reporting services for the Panel and all other NRC headquarters offices, including the Commission.
- F.** Provides information technology support functions for adjudicatory hearings, including, in conjunction with the Office of the Secretary, coordinating (1) the implementation and operation of the Licensing Support Network (LSN) library, which consists of documentary discovery material associated with the high-level waste repository licensing proceeding, in the Agencywide Documents Access and Management System; and (2) LSN Advisory Review Panel activities.

III. DELEGATION OF AUTHORITY TO THE CHIEF ADMINISTRATIVE JUDGE, THE ASSOCIATE CHIEF ADMINISTRATIVE JUDGE (LEGAL), AND THE ASSOCIATE CHIEF ADMINISTRATIVE JUDGE (TECHNICAL)

The Chief Administrative Judge, the Associate Chief Administrative Judge (Legal), and the Associate Chief Administrative Judge (Technical), are authorized and directed to take such action as is necessary to carry out the functions assigned by 10 CFR Part 2 and other official agency directives or communications, subject to any limitations prescribed therein.

IV. DELEGATION OF AUTHORITY TO ATOMIC SAFETY AND LICENSING BOARDS AND PRESIDING OFFICERS

Atomic Safety and Licensing Boards and presiding officers are authorized and directed to take such action as is necessary to carry out the functions assigned by 10 CFR Part 2 and other official agency directives or communications, subject to any limitations prescribed therein.

V. REDELEGATION OF AUTHORITY

The delegated authority of Atomic Safety and Licensing Boards and presiding officers may not be further redelegated.

VI. REFERENCES

Code of Federal Regulations

Title 5, Chapter 1, Office of Personnel Management

Part 930, "Programs for Specific Positions and Examinations (Miscellaneous)."

Title 10, Chapter 1, "Nuclear Regulatory Commission"

Part 1, "Statement of Organization and General Information."

Part 2, "Agency Rules of Practice and Procedure."

Part 13, "Program Fraud Civil Remedies."

Nuclear Regulatory Commission Documents

Management Directive 10.153, "Administrative Judges—Compensation and Staffing."

United States Code

Administrative Procedure Act (5 U.S.C. 554, 556-558).

Atomic Energy Act of 1954, as amended, Section 191 (42 U.S.C. 2241).

Energy Reorganization Act of 1974, as amended, Section 201(g)(1) (42 U.S.C. 5841).

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

Nuclear Waste Policy Act of 1982, as amended, Section 114(d) (42 U.S.C. 10134).

Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

DH 9.5	ORGANIZATION AND FUNCTIONS, ATOMIC SAFETY AND LICENSING BOARD PANEL	DT-19-11
<i>Volume 9:</i>	NRC Organization and Functions	
<i>Approved By:</i>	Kristine L. Svinicki, Chairman	
<i>Date Approved:</i>	July 25, 2019	
<i>Cert. Date:</i>	N/A, for the latest version of any NRC directive or handbook, see the online MD Catalog .	
<i>Issuing Office:</i>	Atomic Safety and Licensing Board Panel	
<i>Contact Name:</i>	Emily Krause	
EXECUTIVE SUMMARY		
<p>Management Directive 9.5 replaces Manual Chapter 0106 and is revised to (1) include appropriate office functions in the handbook; (2) add the Licensing Support Network library coordinator and hearing audio and video support functions to the Atomic Safety and Licensing Board Panel responsibilities; (3) reflect a change of titles (a) from Deputy Chief Administrative Judge (Executive) to Associate Chief Administrative Judge (Legal), (b) from Deputy Chief Administrative Judge (Technical) to Associate Chief Administrative Judge (Technical), and (c) from Executive Secretary to Director for the Program Support and Technology Staff; and (4) reflect an organizational name change from the Program Support and Analysis Staff to the Adjudicatory Support and Technology Staff.</p>		

TABLE OF CONTENTS

I. DESCRIPTIONS OF FUNCTIONS	2
A. Functions of the Chief Administrative Judge	2
B. Functions of the Associate Chief Administrative Judge (Legal)	4
C. Functions of the Associate Chief Administrative Judge (Technical).....	4
D. Functions of Panel Administrative Judges (Legal and Technical) and Administrative Law Judges.....	4
E. Functions of the Chief Counsel and the Legal Support Staff	5
F. Functions of the Adjudicatory Support and Technology Staff, Director and Staff.....	5

For updates or revisions to policies contained in this MD that were issued after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

I. DESCRIPTIONS OF FUNCTIONS

A. Functions of the Chief Administrative Judge

Coordinates the activities of the Atomic Safety and Licensing Board Panel (the Panel), which is composed of members appointed by the Commission who separately are designated to serve on individual Atomic Safety and Licensing Boards or as a single presiding officer in adjudicatory proceedings, and performs related functions. Specifically, the Chief Administrative Judge—

1. Develops and implements the necessary policies and procedures to assure the expeditious conduct of the Panel's activities.
2. Coordinates and supervises activities of licensing boards and presiding officers.
3. Assigns Panel members to serve as presiding officers and to serve on licensing boards.
4. Assigns Panel members to serve as special assistants (Panel members who may offer advice on particular subject matter) to presiding officers or licensing boards and as settlement judges.
5. In accordance with the procedures specified in Management Directive 10.153, "Administrative Judges – Compensation and Staffing," recommends individuals to the Chairman for appointment to the Panel.
6. Recommends individuals to the Chairman for appointment as Associate Chief Administrative Judge (Legal) and Associate Chief Administrative Judge (Technical).
7. Develops policies and procedures applicable to the activities of various licensing boards and presiding officers and, as appropriate, makes recommendations to the Commission relating to the conduct of hearings, hearing procedures, and policies for the guidance of licensing boards and presiding officers, including methods of achieving improved regulatory efficiency and effectiveness.
8. Acts as spokesman for the Panel in matters relating to its activities and those of licensing boards and presiding officers.
9. Informs the Panel of Commission policies and procedures affecting the conduct and activities of licensing boards and presiding officers.
10. Serves from time to time as a Chairman or a member of a licensing board or as a presiding officer in adjudicatory proceedings.

-
11. Makes recommendations to the Commission relating to licensing, inspection, compliance, and enforcement procedures, policies, and practices as may be appropriate in light of experience on licensing boards and as a presiding officer in presiding over adjudicatory proceedings and based upon recommendations from Panel management and, as appropriate, the Panel as a whole.
 12. Monitors developments in administrative law and procedure arising out of the activities, reports, and decisions of administrative agencies, courts, legal writers, and State and local agencies, and keeps Panel members current regarding such developments.
 13. Maintains liaison with the Chief Administrative Law Judges of other Federal and State regulatory agencies, the Conference of Administrative Law Judges, and the Office of Personnel Management's (OPM's) Office of Administrative Law Judges, and informs members of the Panel of developments relating to the role of hearing officers and the conduct of the administrative process.
 14. Develops an educational training and orientation program for Panel judicial members and staff on an in-house basis and through facilities available in other agencies or organizations to promote opportunities for advanced professional education and orientation.
 15. Develops summaries of new technical developments, information, and guidance materials for distribution to members of the Panel on a current basis.
 16. Acts for a licensing board or as a presiding officer on applications for subpoenas under the circumstances described in Title 10 of the *Code of Federal Regulations* (10 CFR) 2.319(b) and 2.702(a).
 17. With his or her authorization, signs an issuance for a Panel member who is not otherwise available to execute the issuance.
 18. With the Office of the Secretary, coordinates (1) the implementation and operation of the Licensing Support Network (LSN) library, which consists of documentary discovery material associated with the high-level waste repository licensing proceeding, in the Agencywide Documents Access and Management System; and (2) LSN Advisory Review Panel activities.
 19. Provides management supervision of the Panel's hearing audio and video support functions.
 20. Provides management oversight for the NRC verbatim reporting services contract.
 21. Performs such other functions as may be assigned by the Commission.

B. Functions of the Associate Chief Administrative Judge (Legal)

1. Appointed by the Chairman in consultation with the Commission.
2. Responsibilities include the following:
 - (a) Acts for the Chief Administrative Judge in his or her absence, performing all the duties and exercising all the powers of that position.
 - (b) Serves from time to time as a Chairman or a member of a licensing board or as a presiding officer in adjudicatory proceedings.
 - (c) Performs such other duties as may be assigned by the Chief Administrative Judge.

C. Functions of the Associate Chief Administrative Judge (Technical)

1. Appointed by the Chairman in consultation with the Commission.
2. Responsibilities include the following:
 - (a) Acts for the Chief Administrative Judge in the absence of the Chief Administrative Judge and the Associate Chief Administrative Judge (Legal), performing all the duties and exercising all the powers of that position.
 - (b) Serves from time to time as a member of a licensing board.
 - (c) Performs such other duties as may be assigned by the Chief Administrative Judge.

D. Functions of Panel Administrative Judges (Legal and Technical) and Administrative Law Judges

1. Panel administrative judges are lawyers or technical members with expertise in a wide variety of disciplines. Unlike an administrative law judge, Panel administrative judges are not subject to the OPM requirements set forth in 5 CFR Part 930, Subpart B. Nonetheless, as a matter of policy the Commission follows 5 CFR 930.206, which is intended to ensure the independence of judicial officers by prohibiting the rating of their performance.
2. Panel administrative judges conduct such hearings as the Commission may authorize or direct, make such intermediate or final decisions as the Commission may authorize in proceedings to grant, suspend, revoke, or amend licenses or authorizations, and perform such other regulatory functions as the Commission deems appropriate.

3. Adjudicatory hearings conducted pursuant to 10 CFR Part 2, Subparts B, G, J, K, L, and N, of the Commission's Rules of Practice are presided over by administrative law judges or licensing boards that are assigned from the Panel's membership.
4. Adjudicatory hearings conducted pursuant to 10 CFR Part 2, Subpart M, of the Commission's Rules of Practice are presided over by an administrative law judge or by a licensing board or a single administrative judge assigned from the Panel's membership.
5. In performing their functions, administrative law judges, licensing boards, and administrative judges appointed as presiding officers exercise the powers of a presiding officer as granted by 10 CFR Part 2.
6. To the extent permitted under the Administrative Procedure Act (5 U.S.C. 554, 556-558), civil penalty and other cases may be heard and decided by an administrative law judge sitting alone. Administrative law judges assigned to the NRC also can serve as a lawyer member of a licensing board or as a presiding officer when their duties and responsibilities permit such service.

E. Functions of the Chief Counsel and the Legal Support Staff

1. Provide legal opinions and recommendations to the Panel.
2. Conduct legal research and prepare draft legal memoranda and opinions for licensing boards and presiding officers in conjunction with panel adjudicatory proceedings.
3. Assist the Chief Administrative Judge by monitoring and reporting on current legal and procedural developments affecting the Panel.
4. Assist the Chief Administrative Judge in administrative matters, including administering the Panel's law clerk and legal intern programs, formulating the Panel budget and workload estimate, and drafting Panel reports and publications.

F. Functions of the Adjudicatory Support and Technology Staff, Director and Staff

1. Provide day-to-day administrative and managerial support to the Panel.
2. Maintain administrative support services for Panel activities dealing with case docket files, computer systems and applications, requisitioning of supplies and services, inventory maintenance, technical and legal library services, Panel member travel and hearing venue arrangements, and statistical reporting.
3. Serve as Panel liaison for such administrative matters as panel meetings, contracts, fiscal budget and financial planning, hearing arrangements, and personnel and security issues.

4. Manage the verbatim reporting services contract for the Panel and other NRC headquarters offices, including the Commission.
5. Manage and support hearing audio and video functions, which provide electronic presentation capabilities in agency licensing and enforcement adjudications in both the Panel's Rockville, Maryland, hearing room and remote locations. This includes performing the following functions:
 - (a) Coordinates access to, and the functioning of, hearing audio and video equipment, as well as coordinating the resolution of technical/policy problems and issues regarding the design, construction, and operation of the hearing audio and video equipment.
 - (b) Designs, develops, and operates hearing audio and video equipment based on NRC guidance for the development of NRC information technology systems.
 - (c) Delivers training on hearing audio and video equipment operations for participants.
6. Provide information for periodic Panel reports to the Commission on information technology related Panel activities.
7. Support Panel coordination with other NRC offices regarding (1) the provision of information technology infrastructure resources to meet the requirements of 10 CFR Part 2, including the LSN library; (2) electronic motions practice; and (3) docket capabilities.
8. Coordinates the use of information technology for enabling remote attendance of hearing participants by either audio conference or video conference.