

(STP-03-048, June 2003, Program, SA-106)

June 23, 2003

ALL AGREEMENT STATES, MINNESOTA, PENNSYLVANIA, WISCONSIN

**OPPORTUNITY TO COMMENT ON REVISED DRAFT STP PROCEDURE SA-106,
“THE MANAGEMENT REVIEW BOARD” (STP- 03-048)**

Enclosed for your review and comment is the revised draft Office of State and Tribal Programs (STP) Procedure SA-106, “The Management Review Board.” This procedure provides the guidelines for conducting Management Review Board (MRB) meetings for Integrated Materials Performance Evaluation Program reviews, including a process to inform the MRB and the Commission of the status of Regional and Agreement State materials programs, documentation of precedents established by the MRB, and documentation of good practices. Changes are in redline/strikeout. We would appreciate receiving your **comments* within 30 days** from the date of this letter.

Thank you for your attention to this matter. If you have any questions regarding this correspondence, please contact me on 301-415-3340 or the individual named below.

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/RA by Josephine M. Piccone for/

Paul H. Lohaus, Director
Office of State and Tribal Programs

Enclosure:
As stated

* This information request has been approved by OMB 3150-0029, expiration 06/30/04. The estimated burden per response to comply with this voluntary collection is approximately 6 hours. Forward any comments regarding the burden estimate to the Information and Records Branch (T-6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0029), Office of Management and Budget, Washington, DC 20503. If a document does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information.



STP Procedure Approval

The Management Review Board

SA-106

Issue Date:

Expiration Date:

Paul H. Lohaus
Director, STP

Date:

Josephine M. Piccone
Deputy Director, STP

Date:

Lance J. Rakovan
Procedure Contact, STP:

Date:

NOTE

The STP Director's Secretary is responsible for the maintenance of this master copy document as part of the STP Procedure Manual. Any changes to the procedure will be the responsibility of the STP Procedure Contact. Copies of STP procedures will be distributed for information.



Procedure Title:
The Management Review Board
Procedure Number: SA-106

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Issue Date:

I. INTRODUCTION

Per Management Directive 5.6, Integrated Materials Performance Evaluation Program (IMPEP), it is the policy of **the** NRC to evaluate ~~the~~ NRC Regional materials programs and Agreement State radiation control programs in an integrated manner, using common and non-common performance indicators, to ensure that public health and safety are adequately protected and that Agreement State programs are compatible with NRC's program. The Management Review Board (MRB) provides a senior-level review of the IMPEP team's findings and recommendations and issues the final NRC findings to the Region or Agreement State. **For Regions, these findings include decisions regarding heightened oversight.** For Agreement States, these findings can include decisions regarding ~~the~~ heightened oversight, probation, suspension, or **the** revocation of some or all aspects of the regulatory program discontinued by the NRC and assumed by the Agreement State.

II. OBJECTIVE

1. To provide the guidelines that will be followed by the MRB when conducting MRB meetings for IMPEP reviews and issuing findings for Region and Agreement State programs.
2. **To establish the means to keep the MRB and the Commission informed on the status of Regional and Agreement State materials programs in a timely fashion.**
3. **To specify directions for documenting precedents established by the MRB.**

III. BACKGROUND

- A. The MRB makes the overall assessment of each NRC Region or Agreement State program on the basis of the proposed final report and recommendations prepared by the IMPEP team that conducted the review of that Region or State, including any unique circumstances.
- B. The overall MRB assessment includes a consideration of information provided by the Region or State at the MRB meeting.
- C. The MRB may also convene to evaluate special reviews of a Region or an Agreement State program conducted to assess a specific program weakness.

IV. ROLES AND RESPONSIBILITIES

- A. The MRB is responsible for providing the senior level review. Its membership consists of senior NRC managers, or their designees, to include: Deputy Executive Director for Materials, Research and State Programs (DEDMRS); Director, Office of Nuclear Material Safety and Safeguards (NMSS); Director, Office of State and Tribal Programs (STP); General Counsel; and an Agreement State Liaison to the MRB. A quorum for an MRB meeting consists of at least three voting members of the MRB. Designees count as part of the quorum.
- B. The DEDMRS or DEDMRS's designee, is the Chair of the MRB. The Chair has signature authority for outgoing correspondence resulting from MRB proceedings.
- C. STP is the lead office responsible for the coordination of Agreement State MRBs.
- D. NMSS is the lead office responsible for the coordination of Regional MRBs.
- E. The Organization of Agreement States (**OAS**) is responsible for specifying a representative to serve as a member of each MRB, as a non-voting Agreement State Liaison. In this capacity, the State representative receives applicable documentation and engages in all MRB discussions. The Agreement State Liaison representative is expected to provide an Agreement State perspective on any matter that is discussed or voted on by the MRB. **An additional OAS Liaison may be requested to participate in a specific MRB meeting if an additional State perspective is desirable.**
- F. A representative from a fifth NRC office may participate as an MRB member if a concern exists with regard to a specific aspect of an NRC Region or Agreement State program. The lead office for the review will be responsible for inviting the representative. Representatives will be a non-voting MRB members and may be taken from the following offices as needed:
 - 1. **The Office of Nuclear Safety and Incident Response (NSIR)** ~~Operations (IRO)~~ is the lead office responsible for NRC coordination of incident response issues.
 - 2. **The Office of Human Resources (HR)** is the lead office responsible for staffing and training issues.

V. GUIDANCE

A. MRB

1. MRB meetings are to be conducted approximately 74 days from the last day of the IMPEP review in order to issue the final report within 104 days. These meetings are open to the public and published in the weekly notice of “NRC Meetings Open to the Public.” MRB meetings may take place beyond the 74th day in order to assemble a quorum to accommodate Agreement State/Regional schedules, and/or to incorporate important supplemental material. However, every effort should be made by STP and NMSS to meet the timeliness goal for issuing the final reports in 104 days.
2. The MRB Chair consults with other MRB members to reach a consensus position on each indicator and, if necessary, provides specific instructions to the IMPEP team leader. If a consensus is not apparent, a vote is taken and a simple majority decides the MRB's position about report revisions.
3. In some instances, the overall program adequacy finding and, for Agreement States, the compatibility finding, may not be possible at the time of the MRB meeting. In those cases, a report is issued to the Region or Agreement State within the goal of 104 days that addresses both completed review findings and the status of outstanding issues. A report supplement will be issued when the outstanding areas are finally resolved by the MRB.
4. The MRB may choose to go into an executive session during the public meeting at the discretion of the MRB Chair. ~~Any voting on~~ **For all matters discussed in an executive session that require a formal vote by the MRB, the vote will take place will be voted on during the public meeting, regardless of whether the topic was discussed in an executive session or not.**
5. If the MRB recommends that ~~NRC commence proceedings to initially place an Agreement State or Regional program~~ **be placed on heightened oversight, the guidance in STP Procedure SA-122, Heightened Oversight, should be followed on heightened oversight as outlined in MD 5.6, STP or NMSS is the lead for preparation of a memorandum to the Commission. (See Appendix A).**
 - ~~a. Heightened oversight could include requests for an Agreement State/Regional program improvement plan, NRC/State management meetings, periodic program progress reports, periodic NRC/Agreement State conference calls, and a follow-up review by the IMPEP team. The~~

~~MRB will designate a recommended period of time for the heightened oversight, usually not to exceed one year.~~

- ~~b. The MRB will consider lifting the heightened oversight status after a follow-up review conducted by an IMPEP review team or after a similar review conducted by STP, NMSS, or a Region if no follow-up review is conducted. The MRB will consider the improvements implemented by the program and the resolution of the IMPEP review team's recommendations directly related to the program's adequacy.~~
 - ~~c. In the event the Agreement State does not correct the deficiencies that led to the heightened oversight within the designated time frame and extenuating circumstances do not exist, STP will prepare at the direction of the MRB, a Commission paper requesting approval for the appropriate actions to take regarding the Agreement State program. This Commission paper will include the status of the Agreement State program; recommendations of the MRB and any other pertinent information. (See Appendix B for a sample Commission paper.) In the event the Region does not correct such deficiencies, additional corrective actions will be addressed internally on a case-by-case basis. (See Section V.A.9.)~~
6. If a finding of "Adequate, But Needs Improvement" is made of a Region, the MRB (including the Director, NMSS) will consult with the Executive Director for Operations to determine what remedial steps need to be taken and will inform the Commission accordingly. Program probation, suspension, and termination which will be considered when an "Adequate, But Needs Improvement" finding is made for an Agreement State Program are not applicable to Regional programs. NRC must implement immediate action to correct Regional program deficiencies that are similar to those that would warrant probation, suspension, or termination actions for an Agreement State.
 7. If the MRB recommends that NRC initiate proceedings to place an Agreement State program on probation, STP Procedure SA-113, *Placing an Agreement State on Probation*, should be followed.
 8. If the MRB recommends that NRC initiate proceedings to suspend an Agreement State program, STP Procedure SA-114, *Suspension of a Section 274b Agreement*, should be followed.
 9. If the MRB recommends that NRC initiate proceedings to terminate an Agreement State program, STP Procedure SA-115, *Termination of a Section 274b Agreement*, should be followed.

B. STP

1. For both Regional and Agreement State MRB **meetings**, the STP lead secretary ensures that MRB meetings are announced using Form 549, “Public Meeting Announcement Data Input” and are open to the public.
2. For Agreement State MRB **meetings**, the STP **senior IMPEP** project manager ~~for IMPEP coordination~~ is responsible for providing all relevant correspondence (i.e., ~~draft report~~, State responses, proposed final reports, meeting agendas) to the MRB, the IMPEP team, and other attendees, at least seven days in advance of meeting as described in Appendix ~~C~~**B**.
3. The STP lead secretary in consultation with the IMPEP team leader, coordinates attendance at the MRB meeting with the representatives of the Agreement State or Region under review, the IMPEP review team members, and an Agreement State Liaison including invitational travel for attendance at the meeting. Attendance by Agreement State and NRC Regional participants through a video conference is encouraged whenever possible. If the State or Regional representative(s) will not be physically attending the meeting, arrangements for video conference or teleconference should be made by the STP lead secretary.
4. It is the duty of the STP IMPEP project manager to keep the MRB informed on the status of Regional and Agreement State materials programs in a timely fashion through briefings of periodic meeting summaries (See NMSS Policy and Procedures Letter 1-70, and STP Procedure SA-116, Periodic Meetings with Agreement States). A brief summary of each Region’s and State’s periodic meeting report will be given to the MRB at the most convenient MRB meeting following the issuance of the periodic meeting report. Management from each program discussed should be invited to participate in the meeting.
54. The STP **senior IMPEP** project manager ~~for IMPEP coordination~~ is responsible for ~~the~~ **taking and issuing** minutes of Agreement State and Regional MRB meetings ~~which~~. **The minutes should** summarize major discussions, ~~and do but~~ not ~~attempt to provide~~ **include** verbatim accounts of the proceedings. **Root causes for significant program performance issues, any precedents established by the MRB or lessons learned during the review that will be applied to the IMPEP process in the future, and any good practices should also clearly documented.** Preparation and dissemination of meeting minutes are the responsibility of STP, unless otherwise stated. Minutes of the preceding meeting are approved by the MRB in its next meeting or through mail. Following MRB approval, the minutes become a matter of the public record.

6. STP should issue an annual memorandum to the Commission featuring a report on the status of Agreement States' and Regions' radioactive material programs. The memorandum should include the following attachments: (1) Summary of Agreement States' Adequacy and Compatibility Status as of January of the year issued; (2) Summary of the NRC Regions' Adequacy Status; (3) Summary of IMPEP Report Issuance Against the 104-day Goal; and (4) Summary of Activities Related to States in Heightened Oversight or Increased Monitoring. A sample memorandum with attachments can be found in Appendix A..

C. NMSS

1. For Regional reviews, the NMSS IMPEP team leader is responsible for providing all relevant correspondence (i.e., draft report, Regional responses, proposed final report, meeting agenda) to the MRB, the IMPEP team, and other attendees, at least seven days in advance of meeting as described in Appendix B.

VI. APPENDICES - Draft Samples

Appendix A - Annual Report of Agreement States' and Regions' Radioactive Material Programs
~~Memorandum from EDO to Commission on Heightened Oversight of an Agreement State~~

Appendix B - ~~Commission Paper Requesting Approval Regarding the Status of Heightened Oversight for an Agreement State~~

~~Appendix C - Memorandum to the Management Review Board on the MRB Meeting and Sample MRB Meeting Agenda~~

VII. REFERENCES

1. NRC Management Directive 5.6, *Integrated Materials Performance Evaluation Program*, November 25, 1997.
2. STP Procedure SA-113, *Placing an Agreement State on Probation*, February 5, 1999.
3. STP Procedure SA-114, *Suspension of a Section 274b Agreement*, February 5, 1999.
4. STP Procedure SA-115, *Termination of a Section 274b Agreement*, February 5, 1999.
5. NMSS Policy and Procedures Letter 1-70, April 2001.
6. STP Procedure SA-116, *Periodic Meetings with Agreement States*, January 21, 2000.
7. STP Procedure SA-122, *Heightened Oversight*, DATE.

Appendix A

MEMORANDUM TO: [The Chairman and Commissioners]

FROM: [Executive Director for Operations]

SUBJECT: ANNUAL REPORT OF AGREEMENT STATES' AND
REGIONS' RADIOACTIVE MATERIAL PROGRAMS

This is an annual report on the status of the Agreement States' and Regions' radioactive material programs. Depending on the State's performance, review cycles under IMPEP are up to four years. All but [#] Agreement States were found to be adequate to protect public health and safety and were found to be compatible with the NRC's program. Attachment 1 is the Summary of Agreement States' Adequacy and Compatibility Status as of January [YEAR].

[Include brief discussions of any States/Regions that were in Heightened Oversight and/or Monitoring during the past fiscal year.]

Attachment 2 presents the Summary of the NRC Regions' Adequacy Status. Attachment 3 presents a summary of IMPEP report issuance against the 104-day goal. Attachment 4 presents a summary of activities related to States in heightened oversight or increased monitoring.

Attachments:
As stated

cc: SECY
OGC
OCA
OPA
CFO

Distribution:
EDO RF (WITS #)
DIR RF DCD (SP01) PDR (YES)

IMPEP File

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SUMMARY OF AGREEMENT STATES' ADEQUACY AND COMPATIBILITY STATUS

JANUARY [YEAR]

STATE	REVIEW YEAR	ADEQUACY FINDING	COMPATIBILITY FINDING
[STATE]	[YEAR]	[adequate...]	[compatible ...]

SUMMARY OF NRC REGIONS' ADEQUACY STATUS

REGION	REVIEW YEAR	ADEQUACY FINDING
Region I	[YEAR]	[adequate...]
Region II	[YEAR]	[adequate...]
Region III	[YEAR]	[adequate...]
Region IV	[YEAR]	[adequate...]

IMPEP REPORT TRACKING

FY [YEAR]

State or Region	Review Date Month/Year	Total number of days from review to release of final report Goal: 104 Days
[STATE]	[DATE]	[#]

FY [YEAR] HEIGHTENED OVERSIGHT/MONITORING CHART

State	RSAO/ASPO	Last IMPEP Review	Last Contact	Next Contact	Action(s) Due
HEIGHTENED OVERSIGHT					
[STATE]	[RSAO/ASPO]	[DATES]	[CALL, REVIEW...]	[CALL, REVIEW...]	[LIST OF ACTIONS]
INCREASED MONITORING					
[STATE]	[RSAO/ASPO]	[DATES]	[CALL, REVIEW...]	[CALL, REVIEW...]	[LIST OF ACTIONS]

~~DRAFT SAMPLE: Memorandum from EDO to Commission on Heightened Oversight of an Agreement State/Region~~

~~MEMORANDUM TO: Chairman [Name]
Commissioner [Name]
Commissioner [Name]
Commissioner [Name]
Commissioner [Name]~~

~~FROM: Executive Director for Operations~~

~~SUBJECT: HEIGHTENED OVERSIGHT STATUS FOR THE [NAME AGREEMENT STATE PROGRAM/REGION]~~

~~The Integrated Materials Performance Evaluation Program (IMPEP) review of the [State/Region] program was conducted [date]. As a result of this review and results of the Management Review Board meeting held [date], the NRC found that [State's/Region's] regulatory program [is adequate but needs improvement and compatible/not compatible]. Accordingly, the IMPEP team staff recommended and the MRB concurred that [State/Region] be place on heightened oversight during the next year.~~

~~[This section should contain facts concerning the State's/Region's program, and why heightened oversight is necessary. Reviews, Management Review Board Meetings, commitments from the State/Region and discussions and correspondence with the State/Region addressing the deficiencies should be documented.]~~

~~[This paragraph should be included only for Agreement States]~~

~~The review team and staff have considered whether emergency suspension of the [State] program is necessary to assure public health and safety and concluded that no immediate danger to public health and safety exists.~~

~~Heightened oversight will include requests for an [Agreement State/Region] program improvement plan, periodic [Agreement State/Region] progress reports, periodic [NRC/Agreement State or NRC/Regional] conference calls, and a follow-up review by the IMPEP team. In the event the [Agreement State/Region] does not correct the deficiencies that led to the heightened oversight within the one year time frame and extenuating circumstances do not exist, staff will prepare a Commission paper requesting approval for the appropriate actions to take regarding the [Agreement State/Region] program. The need for additional remedial actions by a Region will be monitored by NMSS (via the Operating Plan) on at least a quarterly basis with actions coordinated through the EDO.~~

~~DRAFT SAMPLE: Commission Paper Requesting Approval Regarding the Status of Heightened Oversight for an Agreement State~~

FOR: ~~_____~~ The Commissioners

FROM: ~~_____~~ Executive Director for Operations

SUBJECT: ~~STAFF'S RECOMMENDATIONS REGARDING [STATE'S] AGREEMENT STATE PROGRAM~~

PURPOSE:

~~To present the results of the staff review of the [State] program during the heightened oversight period, the Management Review Board's (MRB) recommendation for [continued heightened oversight, probation, suspension, or termination] of the [State] Agreement.~~

SUMMARY:

~~A follow-up review of [State's] Agreement State program was conducted on [Date]. As a result of this review and results of the MRB meeting, the staff found that [State's] regulatory program had not implemented sufficient improvements to eliminate NRC concerns about the adequacy of the [State's] program. [Generally describe the new or ongoing deficiencies and status of State's efforts to address deficiencies.]~~

~~The MRB recommends [continued heightened oversight, probation, suspension, or termination] of the [State] Agreement.~~

DISCUSSION:

~~[This section should contain facts concerning the State's program and why the MRB action is desirable. Reviews, Management Review Board Meetings, follow-up reviews and discussions and correspondence with the State addressing the deficiencies should be documented.]~~

COORDINATION: ~~This paper has been coordinated with the Office of the General Counsel, which has no legal objection.~~

RECOMMENDATION: ~~That the Commission:~~

- ~~1. Approve the MRB recommendation for [continued heightened oversight, probation, suspension or termination] in accordance with procedures.~~

~~2. Notify the [State] of the Commission action.~~

Executive Director

for Operations

Attachments:

As stated

Appendix **CB**

DRAFT SAMPLE: Memorandum to the Management Review Board on the MRB meeting and Sample MRB Meeting Agenda

MEMORANDUM TO: Deputy Executive Director for
Materials, Research, and State Programs

Director, Office of State and Tribal Programs

Director, Office of Nuclear Material Safety
and Safeguards

General Counsel

FROM: Deputy Director, Office of State and Tribal Programs

[OR]

Director
Division of Industrial and Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

SUBJECT: INTEGRATED MATERIALS PERFORMANCE EVALUATION
PROGRAM (IMPEP) REVIEW OF [STATE/ REGION]
RADIATION CONTROL PROGRAM

This memorandum transmits to the Management Review Board (MRB) a proposed final report (Attachment 1) documenting the IMPEP review of the [State/Region] Radiation Control Program. The review of the [State/Region] program was conducted by an interoffice team during the period [date]. The team issued a draft report to [State/Region] on [date], for factual comment. [State/Region] sent factual comments by [letter/memorandum] dated [dated] from [Name], (Attachment to proposed final report).

The review team found [State's/Region's] performance with respect to each of the performance indicators to be [satisfactory, satisfactory with recommendations for improvement or unsatisfactory.] [Accordingly, the team recommends that the MRB find the {State's} program to be {adequate to protect public health and safety, adequate but needs improvement, or inadequate to protect public health and safety} and {compatible or not compatible} with NRC's program.]

OR

[Accordingly, the team recommends that the MRB find the {Region's} program to be {adequate to protect public health and safety, adequate, but needs improvement, or inadequate to protect public health and safety}.]

The MRB meeting to consider the [State/Region] report is scheduled for [day, date,] from [time] - [time] in [location]. In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for that meeting is attached (Attachment 2).

If you have any questions prior to the meeting, please contact me at [phone number] or IMPEP team leader at [phone number].

Attachments:

As stated

cc: [State/Region representative]
Agreement State Liaison to MRB

Agenda for Management Review Board Meeting

[day, date, time, location]

1. ~~Convention~~—MRB Chair convenes meeting. ~~and introduces~~ **Introduction of MRB members, review team members, [State/Regional] representatives, and other representatives participating through telephone bridge or video conferencing.** ~~and Agreement State Liaison to MRB. [Chair, MRB]~~
2. ~~New Business~~—Consideration of [State/Region] IMPEP Report.
 - A. ~~Introduction of IMPEP Team Members. [IMPEP Team Leader]~~
 - ~~B. Introduction of [State/Regional] representatives and other representatives participating through telephone bridge. [STP senior project manager/NMSS senior program analyst]~~
 - ~~C. Presentation of Findings Regarding [State/Region] Program and Discussion. (IMPEP Team)~~
 - Technical Staffing and Training
 - Status of Materials Inspection Program
 - Technical Quality of Inspections
 - Technical Quality of Licensing Actions
 - Response to Incidents and Allegations

[And the applicable following non-common performance indicators]

 - Legislation and Program Elements Required for Compatibility
 - Sealed Source and Device Evaluation Program
 - Low-Level Radioactive Waste Disposal Program
 - Uranium Recovery Program
 - Regional Fuel Cycle Inspection Program
 - Site Decommissioning Management Plan
 - B. MRB Consultation/Comments on Issuance of Report**
 - **Adequacy [and Compatibility] Rating**
 - **Recommendation for the Next IMPEP Review**
 - ~~D. Questions. (MRB Members)~~
 - EC. Comments from [State/Region]**
 - ~~F. MRB Consultation/Comments on Issuance of Report. [MRB Chair]~~
 - ~~- MRB decisions on IMPEP review findings.~~
 - ~~- Recommendation for next IMPEP review.~~
3. ~~Old Business~~—**Results of Periodic Meetings**
4. Approval of MRB Minutes. ~~[STP senior project manager/NMSS senior program analyst]~~
45. Status of Upcoming **IMPEP Reviews and Heightened Oversight/Monitoring Activities.** ~~[STP senior project manager/NMSS senior program analyst]~~

6. Precedents/Lessons Learned

57. Adjournment. [~~MRB Chair~~]

Invitees: [~~MRB members, IMPEP review team, NRC staff attendees, State attendees, Regional attendees~~]
[DEDMRS
Director, STP
Director, NMSS
General Counsel
OAS Liaison
State/Regional Management
IMPEP Project Manager
Other NRC Attendees
Team Leader
RSAO
Team Member
Team Member
Deputy Director, STP
Other State/Regional Attendees]