TN: DT-06-XX

To:	NRC Management Directives Custodians
Subject:	Transmittal of Management Directive 5.3, "Agreement State Participation in Working Groups"
Purpose:	Directive and Handbook 5.3 are being revised and the title changed to better reflect and define the roles and responsibilities of both NRC and Agreement State staff in the establishment and implementation of NRC/Agreement State working groups and internal NRC working groups (e.g., task forces or rulemaking working groups). In addition, the roles and responsibilities of working group members, working group chairs, and steering committee members have been expanded and moved from the handbook to the directive. Checklists have been developed to aid staff in implementing this directive and handbook. Because of the extensive revisions, MD 5.3 contains no change bars.
Office of Origin:	Office of State and Tribal Programs
Contact:	Terry Brock, 301-415-2323
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Availability:	Rules and Directives Branch Office of Administration Michael T. Lesar, 301-415-7163 Christy Moore, 301-415-7086

Agreement State Participation in Working Groups

Directive 5.3

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Agreement State Participation in Working Groups Directive 5.3

Policy
(5.3-01)

It is the policy of the U.S. Nuclear Regulatory Commission to provide Agreement State programs opportunity for early and substantive involvement in the development or formulation of any rule, policy, directive, or guidance document, as well as participation in any special study or other NRC activity, as authorized and directed under Section 274(g) of the Atomic Energy Act of 1954, as amended. This management directive describes the steps and process the staff should follow in the establishment and implementation of NRC/Agreement State and internal NRC working groups as one mechanism whereby Agreement States are provided this early and substantive involvement.

Objectives
(5.3-02)

To describe the steps to be followed to establish and implement an NRC/Agreement State and internal NRC working group. (021)

To develop a process wherein every participant— (022)

- Aligns to the vision, purpose, and goals, as stated in the charter, which transcends a “my way is best” mentality. (a)
- Applies initiative and creativity to each project. (b)
- Commits to the highest standards for quality and effective problem solving. (c)

Objectives
(5.3-02) (continued)

- Actively seeks improvements to processes and standards. (d)

Organizational Responsibilities and Delegations of Authority
(5.3-03)

Commission
(031)

Approves policy matters related to NRC/Agreement State and internal NRC working groups.

Deputy Executive Director for Materials, Research, State and Compliance Programs (DEDMRS)
(032)

As delegated by the Executive Director for Operations, provides management oversight of the activities described herein.

General Counsel
(033)

Ensures that there is no conflict with the Federal Advisory Committee Act or other statutes or procedures.

Director, Office of State and Tribal Programs (STP)
(034)

- Makes recommendations regarding the establishment of NRC/Agreement State and internal NRC working groups. (a)

Organizational Responsibilities and Delegations of Authority
(5.3-03) (continued)

Director, Office of State and Tribal Programs (STP)
(034) (continued)

- Concurs in the establishment of all NRC/Agreement State working groups and steering committees to help ensure appropriate coordination with Agreement States. (b)

- Facilitates Agreement State participation in internal NRC working groups. (c)

- Concurs in all charters of NRC/Agreement State working groups and steering committees to help ensure efficient and effective purpose, function, and product. (d)

Director of the Lead Organization
(035)

- Makes recommendations and approves the establishment and use of NRC/Agreement State and internal NRC working groups and steering committees, as appropriate. (a)

- Concurs in all charters of NRC/Agreement State and internal NRC working groups and steering committees, as applicable. (b)

Organization of Agreement States (OAS) Executive Board
(036)

(Although this directive is an internal NRC document, the OAS Executive Board has responsibilities involving NRC/Agreement State working groups and is included here for completeness.)

Organizational Responsibilities and Delegations of Authority
(5.3-03) (continued)

Organization of Agreement States (OAS) Executive Board
(036) (continued)

- Makes recommendations and approves the establishment of NRC/Agreement State working groups and steering committees. (a)
- Consults with the lead organization and STP on Agreement State involvement in internal NRC working groups. (b)
- Determines State representatives on working groups. (c)
- The OAS Chair concurs in all charters of NRC/Agreement States, and as applicable, internal NRC working groups and steering committees. (d)

Working Group Chair/Co-Chair or Task Leader
(037)

- Drafts charter for working group and helps coordinate activities as the working group is established. (a)
- Schedules, establishes agendas for, and leads working group meetings. (b)
- Prepares meeting minutes and other support activities, as appropriate. (c)
- The NRC co-chair ensures that appropriate documents are made available in the NRC's Agencywide Documents Access and Management System (ADAMS) and the Public Document Room. (d)

Organizational Responsibilities and Delegations of Authority
(5.3-03) (continued)

Working Group Chair/Co-Chair or Task Leader
(037) (continued)

- Ensures that the working group follows the charter or rulemaking plan, including completion of all tasks within the agreed-upon time frame. (e)

- Ensures that the lead organization and the steering committee (if applicable) are kept informed of progress. (f)

- Ensures that issues and areas needing policy guidance or direction are brought to the lead organization or steering committee (if applicable) for discussion and resolution. If the working group has no steering committee and needs guidance, the co-chairs shall bring the issue(s) to the attention of STP management, the OAS Board, or OGC, as applicable. (g)

- Issues the final working group product or products. (h)

NRC/Agreement State Working Group
(038)

- Works with the working group chair to assess the tasks needed to complete draft working group products, address comments, assist in preparing any necessary briefing materials, and complete final working group products. (a)

- Prepares draft working group products, as appropriate, and develops milestones for preparation so that final products will be completed on time. (b)

Organizational Responsibilities and Delegations of Authority
(5.3-03) (continued)

NRC/Agreement State Working Group
(038) (continued)

- Facilitates the concurrence process by assisting in developing appropriate resolutions to any significant issues of concern. (c)

- Supports and/or participates in management briefings and any public meetings. (d)

- For Agreement State working group members, keeps the OAS Board apprised of the working group progress and solicits comments and input on working group issues. Notifies the OAS Board of potential problems or policy issues. Obtains views from other Agreement States, if possible. (e)

- Reviews contractor reports. (f)

Lead Organization
(039)

- Establishes clear expectations for the working group regarding the purpose (the work expected) and the goals (the desired outcome and framework for recommendations) associated with the project. (a)

- Establishes ground rules, roles, and responsibilities for team members, as well as what work will be done and by whom. The relationship of these issues to the goals must be clear. (b)

- Establishes measurable expectations with respect to timeliness, quality, and quantity. (c)

- Establishes authority for decisionmaking. (d)

Organizational Responsibilities and Delegations of Authority
(5.3-03) (continued)

Lead Organization
(039) (continued)

- Establishes expectations for communication strategies for (1) seeking input from stakeholders, when appropriate, and (2) providing status updates and results to the lead organization, the steering committee, and the OAS Board. (e)

- Ensures that the resources needed to accomplish the task are provided to the working group. (f)

Steering Committee
(0310)

- For NRC/Agreement State and internal NRC working groups, reviews and comments (as needed) and agrees to the working group charter. (a)

- Serves as a sounding board for the working group. (b)

- Sets expectations and ensures that all involved parties are in agreement with the scope, product, and expected outcomes of the working group throughout the process. (c)

- Provides insight on the technical, regulatory, and policy issues being addressed by the working group. (d)

- Reviews progress and provides management direction, guidance, and oversight of working group activities. (e)

- Helps resolve difficult critical issues, especially when members of the working group disagree or are at an impasse. (f)

Organizational Responsibilities and Delegations of Authority
(5.3-03) (continued)

Steering Committee
(0310) (continued)

- Provides feedback on draft working group products. (g)

- Reviews the final working group product and provides advice as to whether it is ready for issuance, fully addresses the substance of the charter, and is of sufficient depth, quality, and content. (h)

- Keeps senior management and the OAS Board informed of policy issues, schedules, and working group progress, as necessary. (i)

Member of Internal NRC Working Groups (such as Rulemaking)
(0311)

- Works with the task leader to assess the tasks needed to prepare the rule package, address comments, estimate information collection burden, assist in preparing briefing materials, and complete the rule package. (a)

- Reviews contractor reports. (b)

- Prepares associated guidance (including licensing, inspection, and enforcement guidance), as appropriate, and developing milestones for its preparation so that final guidance will be available at the time the rule is implemented. (c)

- Facilitates the rulemaking concurrence process by assisting in developing appropriate resolutions to any significant issues of concern. (d)

Organizational Responsibilities and Delegations of Authority
(5.3-03) (continued)

Member of Internal NRC Working Groups (such as Rulemaking)
(0311) (continued)

- Supports and/or participates in management briefings and any public meetings. (e)

- For Agreement State working group members, keeps the OAS Board apprised of the rulemaking action and obtains comments and input on working group issues. Notifies the OAS Board of potential problems or policy issues. Obtains views from other Agreement States, if possible. (f)

Applicability
(5.3-04)

The policy and guidance in this directive and handbook apply to all NRC employees who are responsible for establishing and participating in NRC/Agreement State and internal NRC working groups with State representatives. Agreement State representatives are expected to abide by this directive.

Handbook
(5.3-05)

Handbook 5.3 provides guidance for the establishment and implementation of NRC/Agreement State working groups, and internal NRC working groups in which Agreement States participate.

References
(5.3-06)

Nuclear Regulatory Commission Documents

Commission Paper

COMKC-91-007, "Improving Cooperation With Agreement States," memorandum from Samuel J. Chilk, Secretary, to James M. Taylor, Executive Director for Operations, and Harold R. Denton, Director, Office of Governmental and Public Affairs, April 11, 1991.

NMSS Policy and Procedures Letter

NMSS Policy and Procedures Letter 1-63, “Procedures for Preparation and Review of Rulemaking Packages,” Revision 1.

NRC Management Directives

3.5, "Attendance at NRC Staff Sponsored Meetings."

6.3, “The Rulemaking Process.”

NUREG

NUREG-BR/0053, "NRC Regulations Handbook."

United States Code

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Agreement State Participation in Working Groups

Handbook 5.3

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Part I
Basic Guidelines

General (A)

An NRC office (headquarters or regional) or the Organization of Agreement States (OAS) Executive Board may recommend the establishment of an NRC/Agreement State working group to address a wide range of issues and to develop a variety of different products. Working groups provide a means for NRC and State staff to work cooperatively in the development of a rule, policy, directive, or guidance document or to participate in a special study. Representatives of the Conference of Radiation Control Program Directors (CRCPD) may be requested to participate if broader State participation is desired, or the issue involves topics affecting non-Agreement States or all the States. Other Federal agency representatives may also be requested as necessary, depending on the purpose and scope of the working group. (1)

An NRC office may also request Agreement State or CRCPD State staff participation on internal NRC working groups to provide opportunity for early and substantive State input and to help ensure State views are consistent in the development of an NRC product, such as a new or amended rule or guidance document. (2)

All requests for state participation on NRC/Agreement State or internal NRC working groups shall be coordinated by STP. (3)

Types of Working Groups (B)

There are two main types of working groups: (1) an NRC/Agreement State working group that is chartered and operates following guidance set out in Part II of this handbook and (2) an internal NRC working group that is established by an NRC

Types of Working Groups (B) (continued)

office to address a particular technical, policy, or procedural matter (such as development or modification of a rule, policy, or guidance document) or to perform a special study. One example of an internal working group is a rulemaking working group used specifically in the development or revision of rules and regulations as discussed in Part III of this handbook. The general process an internal working group follows is usually different than the process followed by an NRC/Agreement State working group. (1)

In some circumstances, it is possible that a State working group could be formed that would not follow the guidance in Part II or Part III of this management directive. Regardless of the type of working group, all working group participants and their management should agree upon the process that should be used for establishing and conducting the working group. (2)

General Operating Standards (C)

All working group members should be given the opportunity to actively contribute to work goals and products or outcomes. Working group members should be active in recommending improvements and should understand how their contributions are used in the process and products. Expected duties include the following:

- Attending working group meetings (a)
- Coming to meetings prepared to discuss issues (b)
- Providing input on time (c)
- Staying focused on the task (d)
- Clearly stating the positions and concerns of the member's organization (e)

General Operating Standards (C) (continued)

- Providing feedback to member's organization/management to facilitate completion of final products (f)

- Working as a team, not allowing direction from persons outside the working group process to redirect or unduly influence the team (g)

Part II
NRC/Agreement State Working Groups

General (A)

Most working groups of NRC and Agreement State staff fall under the category of NRC/Agreement State working groups. As noted in Part I, these groups are used to develop or revise policies, procedures, and guidance documents, as well as to perform special studies. (1)

These groups are co-chaired by NRC and Agreement State staff members and are used to jointly leverage NRC and Agreement State resources and expertise. (2)

A checklist is provided in Exhibit 1 to facilitate staff adherence to MD 5.3. (3)

Lead Organization (B)

The lead organization (NRC office or the Organization of Agreement States [OAS]) recommending establishment of an NRC/Agreement State working group will usually assume lead responsibility for the working group. This lead responsibility includes establishing the purpose of the working group, requesting participation, drafting a charter, identifying members, and tracking progress.

Request for Participation (C)

The lead organization should submit a request for participation to other NRC offices [e.g., the Office of State and Tribal Programs (STP), the Office of Nuclear Material Safety and Safeguards (NMSS), the Office of the General Counsel (OGC), the regions]. When the lead organization is OAS, requests for NRC office participation should be made through STP. (1)

Request for Participation (C) (continued)

If Agreement State representation is desired, the lead organization shall contact STP to discuss Agreement State involvement. The lead organization should provide the purpose, scope of activities, expected product or outcome of the working group, and the estimated level of effort expected of participants to STP for its use in seeking Agreement State participation. Exhibit 2 is a sample request for participation. Each area is discussed further below. (2)

After submitting a request for participation, the lead organization should place the new working groups on the agenda for discussion during the next monthly NRC/OAS/CRCPD teleconference to ensure a common understanding of the purpose, scope, and proposed membership of the new working group. The lead organization should contact the NRC/Agreement State Working Group Coordinator in STP to discuss any questions on establishing or implementing a working group. Also, the Director of STP should inform the Deputy Executive Director for Materials, Research, State and Compliance Programs of the formation of any NRC/Agreement State working groups. (3)

The request should identify the working group as an NRC/Agreement State working group as defined in this part, and describe the purpose, membership, estimated level of effort expected of participants, scope of activities, estimated time line, and expected product or outcome of the working group (Exhibit 2 is a sample request for participation). Each area is discussed further below. (4)

Purpose (a)

Describe the specific purpose for creating the working group, including any supporting background information. Any restrictions or limitations to be placed on the working group should also be detailed.

Request for Participation (C) (continued)

Suggested Membership (b)

Describe the suggested membership of the working group, including the number of members desired from each organization and the desired expertise and skills of potential participants. For proposed State members, indicate whether the member is expected to also represent OAS or the Conference of Radiation Control Program Directors (CRCPD). Membership on working groups should be kept to a minimum.

Level of Effort Expected of Participants (c)

Describe the level of commitment expected of working group members. Detail the likely number of working group meetings to be held and the amount of time outside of official working group meetings that participants will be expected to spend on working group issues. Detail the estimated number of trips. Detail the estimated completion date.

Scope of Activities and Expected Product (d)

Describe the scope of the activities, the proposed schedule with completion date, and the expected product of the working group.

Steering Committee (e)

Identify whether a steering committee will be established to support the working group (see Part IV of this handbook).

Identification of Working Group Participants (D)

Each organization should respond to the lead organization's request within 30 days and identify working group members. The lead organization may suggest specific members for participation in the working group; however, working group membership is

Identification of Working Group Participants (D) (continued)

ultimately the decision of respective program management. Participating members should be selected to meet the skill needs identified in the lead organization's request for participation. This practice will help ensure that the working group has the correct mix of skills necessary to be effective. A minimum of 30 days should be given to OAS and CRCPD to identify State members. (1)

NRC will select the NRC working group co-chair and the OAS Board will select the OAS co-chair. Responsibilities for chairs are listed in the directive. (2)

In some cases, additional participants from outside the Federal or State government may be requested to be part of a working group. However, if all working group members are not permanent government employees, the group may be considered to be an advisory committee subject to the procedural requirements of the Federal Advisory Committee Act (FACA). In most instances, participation by Federal or State employees in an NRC working group does not have FACA implications, but participation by other persons who are not regular government employees could result in application of the act to the group's activities. If all working group members are not regular government employees, the Office of the Assistant General Counsel for Legal Counsel, Legislation, and Special Projects of the Office of the General Counsel should be contacted before any meeting of the working group takes place to inquire about the applicability of FACA and what actions need to be taken to meet FACA requirements. (3)

The Working Group Charter (E)

Drafting and Approval (1)

Before the working group convenes, the lead organization should draft a charter for the working group and provide working group members and steering committee members an opportunity to

The Working Group Charter (E) (continued)

Drafting and Approval (1) (continued)

review and comment on the draft charter. The charter should preserve the essential elements of the request for participation. All NRC/Agreement State working groups shall have a charter. (a)

The charter should be finalized within 30 days of the first working group meeting. The Director of STP, the director of the lead NRC office, and the OAS Chair shall approve the final charter. (b)

Charter Contents (2)

The charter should contain the following information (Exhibit 3 is a sample working group charter):

Purpose (a)

Describe the specific purpose for creating the working group, including any supporting background information. Any restrictions or limitations to be placed on the working group should also be detailed.

Membership (b)

List each working group member, including the organization each member represents. Steering committee membership and representation should also be included if a steering committee has been assigned to the working group.

Objectives (c)

Fully detail the tasks to be performed by the working group and clearly define the working group products and outcomes.

The Working Group Charter (E) (continued)

Charter Contents (2) (continued)

Schedule (d)

Describe the time frame in which the working group is expected to complete its objectives and issue its final product. Information on expected progress reports, draft products, and meetings with steering committees should be documented as well.

Operating Rules of the Working Group (e)

All charters shall clearly identify if the working group operates as an NRC/Agreement State or internal NRC working group as described under Part II or Part III of this handbook, respectively.

Changes to the Working Group Charter (3)

Any changes to the charter shall go through the approval process stated in Section II(E)(1) above. The original charter shall be followed unless a revision is agreed upon by all concurring organizations.

Management Advisor (F)

If an NRC/Agreement State working group may benefit from routine management interaction and feedback, the working group, the lead organization, or the steering committee may request the identification and involvement of a management advisor. A management advisor can provide perspective on issues and working group tasks and can serve as a sounding board for a working group. The advisor should attend working group meetings and provide assistance on working group products, as necessary. The lead organization shall work in conjunction with STP and OAS to choose a suitable representative. A management advisor may be from either NRC or an Agreement State.

Part III
Internal NRC Working Groups

General (A)

An internal NRC working group may or may not include an Agreement State staff member. As noted in Part I, internal working groups are established by an NRC office to address a particular technical, policy, or procedural matter (such as development or modification of a rule, policy, or guidance document) or to perform a special study. Task forces and rulemaking working groups are two examples of internal NRC working groups. A rulemaking working group is used throughout this part of the handbook for illustration purposes. However, the guidance in this part is not limited to rulemaking working groups. In the case of non-rulemaking working groups, such as a task force, a charter is recommended. (1)

The Office of Nuclear Material Safety and Safeguards (NMSS) is responsible for conducting rulemaking activities involving the regulation of radioactive materials. Rulemaking activities include resolving petitions for rulemaking and developing or participating in the development of rulemaking plans, advance notices of proposed rulemaking, proposed rules, final rules, Paperwork Reduction Act submissions, and regulatory histories, as appropriate. Within NMSS, the Rulemaking and Guidance Branch (RGB), Division of Industrial and Medical Nuclear Safety (IMNS), has the primary responsibility for rulemaking activities. A working group is typically established early in the rulemaking process. (2)

General organizational responsibilities in the rulemaking process for the various NRC offices are described in Management Directive 6.3, “The Rulemaking Process.” Detailed procedures for initiating, conducting, and managing NMSS rulemakings can be found in NMSS Policy and Procedures Letter 1-63, “Procedures for Preparation and Review of Rulemaking Packages.” (3)

General (A) (continued)

A checklist is provided in Exhibit 4 to facilitate staff adherence to MD 5.3 when managing internal NRC working groups with Agreement State members (4)

Task Leader (B)

An NRC task leader will be chosen to lead an internal NRC working group. Responsibilities for task leaders are listed in the directive.

Agreement State Participation (C)

Depending upon the subject matter the working group will be addressing, IMNS may decide that Agreement State representation in the group may be necessary or advisable. Agreement State participation should be strongly considered if it impacts Agreement States. If Agreement State representation is desired, IMNS shall contact STP to discuss Agreement State involvement. (1)

IMNS should identify the working group as an internal NRC rulemaking working group as defined in this part and should provide the purpose, scope of activities, expected product or outcome of the working group, and the estimated level of effort expected of participants to STP for its use in seeking Agreement State participation. Exhibit 5 is a sample request for participation. Each area is discussed further below. (2)

Purpose (a)

Describe the specific purpose of the internal NRC working group, including any supporting background information.

Agreement State Participation (C) (continued)

Scope of Activities and Expected Product (b)

Describe the scope of the activities, the proposed schedule, and the expected product of the working group. Include information such as what step in the rulemaking process an Agreement State member will be joining the group (i.e., to decide whether rulemaking is necessary, to prepare a draft rulemaking plan).

Level of Effort Expected of Participants (c)

Describe the level of commitment expected of working group members. Detail the likely number of working group meetings to be held and the amount of time outside of official working group meetings that participants will be expected to spend on working group issues. Detail the estimated number of trips. Detail the milestones and estimated completion date. If Agreement State participation could begin at different points in the rulemaking process, detail options.

STP should send the task leader the name(s) and contact information for all potential Agreement State representatives upon receipt. (3)

Identification of Working Group Participants (D)

Each organization should respond to the request as quickly as possible and identify working group members. IMNS or STP may suggest specific members for participation in the working group; however, working group membership is ultimately the decision of respective program management. Participating members should be selected to meet the skill needs identified in the request for participation. This practice will help ensure that the working group has the correct mix of skills necessary to be effective. (1)

Identification of Working Group Participants (D) (continued)

The lead organization should select a task leader. Responsibilities for task leaders are listed in the directive. Federal Advisory Committee Act considerations are discussed in Section II(D)(3) of this handbook. (2)

Rulemaking Plan (E)

Once a request for a rule is received, IMNS may develop a plan for the rulemaking. A rulemaking plan may not be necessary in certain situations, in particular if the Commission specifically directs the initiation of a rulemaking action, if the rule is purely administrative, if there is sufficient urgency to proceed to preparation of a rule package, or if the issue is addressed through issuance of a direct final rule. Components of a rulemaking plan can be found in Handbook 6.3, “The Rulemaking Process.”

The Rulemaking Process (F)

Generally, the rulemaking process consists of development of a rulemaking plan followed by issuance of a proposed rule for public comment and, following the public comment period, issuance of a final rule. In certain situations, NRC may issue what is referred to as a “direct final rule.” A description of those situations, including the procedures for issuing a direct final rule, is contained in Part 9 of the NRC Regulations Handbook, NUREG-BR/0053. Specific steps for preparing a proposed rule package, a final rule package, and a direct final rule package are described in NMSS Policy and Procedures Letter I-63, Appendices B, C, and D, respectively. (1)

Another tool the NRC staff can use is the Advance Notice of Proposed Rulemaking (ANPR) or an issues paper. An ANPR or an issues paper is typically used when the NRC staff does not have adequate information to make a decision to go forward with a rulemaking. In an ANPR or an issues paper, the NRC staff

The Rulemaking Process (F) (continued)

seeks information from the public that is then used as input to make the decision on whether to go forward with a rulemaking and/or the content of the rulemaking. The ANPR process is more formal than use of an issues paper. Part 11 of NUREG-BR/0053 contains additional information on the ANPR process. The office review and concurrence process is the same as for a proposed rule. (2)

Part IV
Steering Committees for Working Groups

General (A)

For NRC/Agreement State and internal NRC working groups, in some cases, the lead organization may establish a steering committee to aid a working group in accomplishing its objectives (for example, if a working group is addressing a particularly complex policy issue). A steering committee should assist a working group in achieving its goals by providing feedback, insight, and advice on the technical, regulatory, and policy issues being addressed by the working group. A steering committee functions until a working group ceases its activities. (1)

If a steering committee is not established, the managers and Organization of Agreement States (OAS) Board members who concurred on the working group charter will be responsible for providing guidance and support on NRC/Agreement State working group activities. (2)

Identification of Steering Committee Members (B)

The persons who concurred on the working group charter or rulemaking plan should agree upon the number of steering committee members needed and which organizations should be represented. The lead organization will request each appropriate organization to recommend an official to serve on the steering committee. STP shall act as the liaison with the OAS for all requests regarding Steering Committee members. A copy of the working group charter or rulemaking plan should be given to each potential steering committee member, along with an estimate of the level of commitment proposed for steering committee members. Steering committee members should be aware that

Identification of Steering Committee Members (B) (continued)

additional meetings may be necessary if unexpected difficulties arise in the working group's progress. (1)

Each organization should respond to the lead organization within 30 days to identify steering committee members. The lead organization may suggest specific members for participation in the steering committee; however, membership is ultimately the decision of respective program management. If an Agreement State member is requested or required, a minimum of 30 days should be given to the OAS to identify State members. (2)

The lead organization, in conjunction with the organizations that concurred on the working group charter, should identify a chair or co-chairs for the steering committee. The responsibilities of steering committee chairs are similar to those listed for working group chairs in the directive. The organizations concurring on the working group charter should also concur on the steering committee charter, its membership, and its chair(s). (3)

Steering Committee Charter (C)

The lead organization should prepare a draft charter to describe the purpose of the steering committee and its membership. An estimate of the number of steering committee meetings expected to be held and the amount of time that members will be expected to spend on working group issues outside of official steering committee meetings should also be identified in the charter. The director of the lead NRC program office and, if applicable, the Director of STP and the OAS Chair shall concur in the final charter.

Steering Committee and Working Group Relationships (D)

A working group shall keep the steering committee informed of its activities by routinely providing steering committee members copies of meeting agendas, meeting minutes, and draft products as they are prepared. The steering committee and the working group should establish a preferred method of making information uniformly available to each steering committee member (e.g., periodic formal reports, information e-mail summaries). The steering committee should meet at appropriate times (e.g., to review issues when draft products are proposed; as requested or needed by the working group to address specific issues). A steering committee should also meet with a working group to review progress, discuss key technical, regulatory, or policy issues, or to provide and receive feedback. (1)

Steering committee guidance and direction shall be provided by the steering committee as a whole through the steering committee chair, not by individual members of the steering committee. The working group, however, has the flexibility to interact with individual members of the steering committee to help, for example, understand issues, clarify points of discussion, or to seek information. If this step is taken, it shall be reported by the working group to the entire steering committee so that it does not unduly influence the outcome of the working group. The working group should consider collective steering committee comments or guidance as recommendations. The working group should consider these recommendations and either reflect them in its work product or provide feedback to the steering committee (e.g., at a steering committee meeting) as to how they were considered and resolved. It is not expected that the working group must specifically address individual steering committee member comments or points of discussion. If any areas of disagreement exist between the steering committee and the working group, the area of disagreement should be discussed and resolved at the next steering committee meeting. If a resolution is not possible, the final product shall contain opposing views if so desired by the dissenter. (2)

Part V
Implementation and Administration

Announcing and Holding Meetings (A)

For NRC/Agreement State working groups, the working group chair should announce each meeting as appropriate, including teleconferences, by placing them on the NRC Public Meeting Notice System at least 2 weeks in advance of the meeting, and on other announcement media as appropriate (e.g., the NRC Public Document Room [PDR] and the Office of Public Affairs). A notice announcing the first meeting should be published in the Federal Register. Public observers should be able to comment on the issues at the end of the meeting, or at designated times throughout the meeting. For additional guidance, see NRC Management Directive (MD) 3.5, "Attendance at NRC Staff Sponsored Meetings." Rulemaking working group meetings will not be open to the public. (1)

Sufficient notice of each meeting should be given to all working group participants to ensure that workloads can be managed and proper arrangements for travel or communications (conference call, video, etc.) can be made. (2)

Predecisional Information (B)

All rulemaking information should be considered predecisional unless otherwise specified. Some working groups may be provided with predecisional information that is exempt from public disclosure. Any working group meetings involving discussion or consideration of predecisional information (information that NRC would not normally discuss in public meetings) would not be open to the public, nor would draft products containing predecisional information be made available to the public through ADAMS (the Agencywide Documents Access and Management System) or another

Predecisional Information (B) (continued)

distribution mechanism. The lead organization, along with the working group chair(s), should decide when meetings and products will be made available to the public. (1)

If the Organization of Agreement States (OAS) is the lead organization, STP may be asked to aid the working groups in making these decisions. For further guidance, see MD 3.5 and "Enhancing Public Participation in the NRC Meetings; Policy Statement," 67 FR 36920. (2)

Meeting Minutes (C)

The NRC/Agreement State working group and steering committee chair should ensure that minutes are kept of all meetings. The minutes and accompanying background documents, with predecisional material deleted, will be placed in ADAMS and the PDR, as appropriate. The title of the document should be unique to the specific meeting and should include the name of the NRC/Agreement State working group and the subject of the meeting. E-mails, telephone calls, and memoranda relating to setting up meetings or arranging working group business or similar administrative activities are not required to be placed in the PDR. Refer to ADAMS Template No. NRC-001, "Meeting-Related Documents for NRC Staff-Level Offices." Minutes need not be kept for rulemaking working group meetings, and any minutes kept should not be shared with the public. (1)

If an NRC/Agreement State working group does not have an NRC chair, the working group may request that the Working Group Coordinator (see Part V(L) of this handbook) handle administrative tasks, such as announcing meetings, ensuring that meeting minutes are placed in ADAMS, and so on. (2)

Changes in Membership (D)

If a working group member must be replaced on a working group either temporarily or permanently, the member's management and the lead organization should agree upon an appropriate replacement. If additional members are required for a working group, the lead organization should coordinate with the office or organization where the additional member is desired. The charter or rulemaking plan for the working group should be shared, and approval from the new member's management should be obtained. A new (replacement) member shall be briefed on the status and issues of the working group prior to attending his or her first meeting.

Progress Reports and Draft Working Group Products (E)

The lead organization, the steering committee, and the working group should agree upon the format and frequency for progress reports, the format for draft products, and who should receive copies. The lead organization and the working group chair(s) may report progress during the monthly NRC/Organization of Agreement States/Conference of Radiation Control Program Directors (NRC/OAS/CRCPD) teleconference, as appropriate. Working group members should decide upon what feedback is necessary with the organizations they are representing. (1)

Throughout all stages of a rulemaking, the lead office shall enter all publicly available documents related to the rulemaking in ADAMS. (2)

Final Working Group Products (F)

The working group's final product should be concurred upon by all members of the working group. If a working group member holds different views, the views shall be included in the product in a

Final Working Group Products (F) (continued)

"differing views" section, if desired by the person(s) with the differing view. If a steering committee has been established, the working group shall provide the steering committee an opportunity to review the final product before issuance. (1)

Final working group products will be placed in ADAMS as appropriate, and distributed to the OAS Chair, the Deputy Executive Director for Materials, Research, State and Compliance Programs (DEDMRS), the Director of STP, and the directors of the appropriate NRC offices. Completed rulemaking working group products should be properly managed and archived in ADAMS. (2)

Coordination With NRC Offices (G)

The lead organization should coordinate with the Office of the General Counsel to ensure that there is no conflict with current statutes or procedures. When the lead organization is OAS, STP will perform these functions.

Sunset Review and Sunsetting (H)

Each year for NRC/Agreement State working groups during the OAS Board meeting, the OAS Board, in conjunction with STP, shall review the need for continuing each existing working group. STP and the OAS Board shall also review the scope, progress, and membership of the working groups and suggest adjustments as necessary. (1)

A working group should be dissolved upon the issuance of the final working group product. Normally, additional work, if necessary, would be handled by OAS, NRC, individual Agreement State programs, or through the formation of another working group. When additional work is expected from the working group after the final product has been issued, the lead organization should discuss this need with NRC management and the OAS Executive Board, and the working group charter should be reviewed and revised as appropriate. (2)

Master List of Working Groups (I)

A master list of all working groups should be maintained by STP. The list should be updated as new working groups are established, as well as when current working groups complete their objectives. At least annually, the list should be distributed to the appropriate offices and contacts to ensure that it is current. The list should also be posted on the STP Web site.

Travel Considerations for Working Group Participants (J)

Travel and per diem expenses for NRC-invited State working group participants should normally be paid by NRC, unless other arrangements are made with the lead organization. The lead organization should coordinate with the Director of STP on the current procedure for invitational travel for State officials and to determine how NRC will cover invitational travel expenses. (1)

Travel and per diem expenses for NRC participants will be paid by their respective offices. (2)

Timekeeping (K)

To ensure that time spent on a working group is identified, a TAC (technical assignment control) number should be assigned for each working group for use by NRC working group members. (1)

If a State working group participant needs documentation of the amount of time spent on working group tasks, the participant should discuss his or her needs with the working group chair(s), as well as with the Working Group Coordinator. (2)

NRC/Agreement State Working Group Coordinator (L)

An STP staff member will be designated by the Director of STP to serve as a coordinator for NRC/Agreement State working groups. The coordinator will be responsible for aiding working groups in reaching their objectives by ensuring that working group members fully understand the working group's process and objectives, and by facilitating working group meetings if facilitation assistance is requested. The coordinator will not be an official member of the working group. The coordinator will attend each initial working group meeting to ensure that all procedural issues are properly addressed. Depending on the topic, scope, and/or complexity of a working group, the chair of the working group can request that the coordinator attend additional working group meetings as well. (1)

If a working group does not have an NRC chair or co-chair, the coordinator may aid the working group by drafting Federal Register notices and assisting in other administrative tasks. (2)

If requested, the working group coordinator can also aid steering committees in scheduling and arranging meetings and, if designated by the steering committee chair, may consolidate steering committee comments and concerns into a single, consensus steering committee response. The coordinator may also be tasked with drafting steering committee meeting minutes and ensuring that meeting minutes are posted on ADAMS. (3)

Exhibit 1
Checklist for Establishing and Operating NRC/Agreement State Working Groups

TASK	RESPONSIBILITY	TIME FRAME	MD 5.3 REFERENCE
Identify task, purpose, tentative schedule, etc.	Lead Organization	Pre-kickoff meeting	5.3-03
Obtain TAC #	Lead Organization	Pre-kickoff meeting	
Prepare request for working group members	Lead Organization	Pre-kickoff meeting	Part II
Send request to STP for distribution to OAS for working group members and, if applicable, steering committee members	Lead Organization	Pre-kickoff meeting	Part II / Exhibit 2
Send request to NRC contacts for working group members and, if applicable, steering committee members	Lead Organization	Pre-kickoff meeting	Part II / Exhibit 2
OAS solicits a volunteer, notifies STP of individual appointee	OAS Chair	Pre-kickoff meeting	
OAS coordinates with CRCPD, as applicable	OAS Chair	Pre-kickoff meeting	
Inform the Deputy Executive Director for STP about the working group formation	STP	Pre-kickoff meeting	Part II
Coordinate 5.3 process	STP	ongoing	
Prepare draft working group charter and, if applicable, steering committee charters	Lead Organization	Pre-kickoff meeting	Parts II and IV (C), Exhibit 3
Identify relevant documents	Lead Organization	Pre-kickoff meeting	
Identify Co-Chairs and coordinate	Lead Organization	Pre-kickoff meeting	
Prepare meeting notices, if applicable	Lead Organization	Pre-kickoff meeting	Part V (A)
Distribute relevant information to the working group members	Lead Organization /Co-Chairs	Pre-kickoff meeting and prior to each meeting	

Exhibit 1 (continued)

TASK	RESPONSIBILITY	TIME FRAME	MD 5.3 REFERENCE
Review relevant information	WG/SC	Pre-kickoff meeting and prior to each meeting	
Post meeting notices, if applicable	Lead Organization	Pre-kickoff meeting and prior to each meeting	Part V (A)
Hold kickoff meeting	Co-Chairs	First meeting	
Finalize charter	Co-Chairs	First meeting	
Define ground rules, assign tasks, schedules	Co-Chairs	First meeting	
Charter approval	Working group members/LO/STP/OAS	30 days after first meeting	Part II (B)
Prepare meeting minutes	Co-Chairs	30 days after each meeting	Part V (C)
Inform management of relevant orgs of working group activities	Co-Chairs and working group members	Ongoing	
Hold working group meetings	Co-Chairs	As needed	
Hold steering committee meetings, as applicable	SC and WG Chairs	As needed	Part IV (D)
Prepare progress reports to lead organization, steering committees	Co-Chairs	Periodically, as defined by WG	
Participate in monthly OAS/CRCPD conference calls	Co-Chairs	As needed	
Coordinate with OGC	Co-Chairs	As needed	
Place relevant documents in ADAMS	NRC Co-Chair	30 days after each meeting	Part V (E)
Prepare preliminary draft working group report	Co-Chairs, working group	120 days before final due	Part V (F)
Prepare final draft working group report	Co-Chairs, working group	90 days before final due	Part V (F)
Incorporate differing opinions, if applicable	Co-Chairs	90 days before final due	Part V (F)
Submit final report to steering committee for approval, if applicable	Co-Chairs	75 days before final due	
Track to final	NRC Co-Chair	Until final	
Decision to sunset	Lead Organization/STP	At task completion	Part V (H)

Legend

ADAMS - Agencywide Documents Access and Management System
CRCPD - Conference of Radiation Control Program Directors
LO - lead organization
OAS - Organization of Agreement States
OGC - Office of the General Counsel
SC - steering committee
STP - Office of State and Tribal Programs
TAC - technical assignment control
WG - working group

Exhibit 2
Sample Request for Working Group Participation

Joint NRC/Agreement State Working Group To Evaluate the Integrated Materials Performance Evaluation Program

PURPOSE

On completion of the first cycle of Integrated Materials Performance Evaluation Program (IMPEP) reviews for the Agreement States, the NRC Office of State and Tribal Programs (STP) plans to establish a working group consisting of representatives from the Nuclear Regulatory Commission (NRC) and the Agreement States to evaluate IMPEP experiences for additional enhancements and lessons learned to strengthen the IMPEP process.

BACKGROUND

In Fiscal Year (FY) 1996, NRC began implementation of the IMPEP in the evaluation of Agreement State and regional materials programs to ensure that public health and safety are adequately protected from the hazards associated with the use of radioactive materials and that Agreement State programs are compatible with NRC's programs. The IMPEP process employs a team of NRC and Agreement State staff to assess both the Agreement State and the NRC regional office radioactive materials licensing and inspection program. All reviews use common criteria in the assessment and place primary emphasis on performance. Additional areas have been identified as noncommon performance indicators and are also addressed in the assessment. The final determination of adequacy and compatibility of each Agreement State program, on the basis of the review team's report, is made by a Management Review Board (MRB) composed of NRC managers and an Agreement State program manager who serves as the Agreement State liaison to the MRB.

At the end of FY 1999, NRC completed its first round of IMPEP reviews for all Agreement States. Regional reviews have occurred every 2 years and Agreement State reviews at frequencies of 2 to 4 years. From its inception, the IMPEP has

Exhibit 2 (continued)

been an iterative process. As the program progressed from the pilot, through interim implementation to final implementation, the NRC staff has factored in experience, comments, and suggestions to enhance the IMPEP. At the completion of this first cycle of reviews, NRC management believes that an independent examination by a working group of the IMPEP experiences to date could further enhance this program.

SUGGESTED MEMBERSHIP

The working group should consist of approximately five members, as follows:

- NRC Co-chair
- Agreement State Co-chair representing the Organization of Agreement States (OAS)
- Representative from the Office of Nuclear Material Safety and Safeguards (NMSS)
- Representative from STP
- Agreement State program representative representing the OAS

The co-chairs should have extensive experience with IMPEP, either in participating on IMPEP review teams, working for a program that has been reviewed under IMPEP, or both. Additional working group members should at the very least have a basic understanding of the IMPEP process.

LEVEL OF EFFORT EXPECTED OF PARTICIPANTS

A minimum of two several-day meetings are expected for this working group in addition to teleconferences. Working group participants will also be expected to review background information and draft products while not attending meetings. Drafting and revising the working group report will also be necessary. The expected period for the working group to complete this assignment will be approximately 6 months. Approximately 3 staff weeks of effort is expected for working group members.

Exhibit 2 (continued)

SCOPE OF ACTIVITIES AND EXPECTED PRODUCTS

This working group will examine the IMPEP process as conducted from FY 1996 through the present and identify issues or enhancements to improve the process. The working group should complete and file a report detailing its findings and recommendations to the Director of STP by October 8, 2001.

STEERING COMMITTEE

A steering committee will be established for this working group. The steering committee will be composed of NRC management from STP and NMSS, as well as representatives from OAS.

Exhibit 3
Sample Working Group Charter

Joint NRC/Agreement State Working Group To Evaluate the Integrated Materials Performance Evaluation Program

PROPOSED CHARTER

PURPOSE

On completion of the first cycle of Integrated Materials Performance Evaluation Program (IMPEP) reviews for the Agreement States, a working group consisting of representatives from the Nuclear Regulatory Commission (NRC) and the Agreement States will evaluate IMPEP experiences for additional enhancements and lessons learned to strengthen the IMPEP process. Experiences from all past IMPEP reviews (both Agreement State and regional) may be used in this evaluation.

The NRC/Agreement State Working Group will examine the IMPEP process as conducted from FY 1996 through the present and identify issues or enhancements to improve the process.

MEMBERSHIP

The following personnel will serve on the working group:

NRC Personnel:
James Lynch, Region III, Co-chair
Charles Cox, NMSS
Lance Rakovan, STP

Agreement State Personnel:
William Silva, TX, Co-chair (representing OAS)
Terry Frazee, WA (representing OAS)

Exhibit 3 (continued)

Resource Representatives:
Kathleen Schneider, STP
George Deegan, NMSS

OBJECTIVES

In examining the IMPEP process, the working group should address the following tasks. Each substantive working group recommendation should be evaluated and prioritized in the context of the following five NRC performance goals.

1. Evaluate the program's performance for additional enhancements, including whether the set of IMPEP elements is complete and sufficiently focused, whether changes are needed in the indicator criteria, and whether there are any patterns or issues identified from Management Review Board (MRB) review, discussions during MRB meetings, or changes to draft IMPEP reports that should be addressed (e.g., whether the reviews and reports can be enhanced to better address the technical quality of inspections; whether additional inspection accompaniments may be desirable when significant areas of improvement are identified in a region or State inspection program).

2. Examine how to best utilize the performance data in the nuclear material events database (NMED) and reported as outcome measures in preparing for and focusing reviews, and the extent to which the goals, measures, and metrics of the strategic plan can be used as key issues or questions to focus the review of each common and noncommon performance indicator. Additionally, evaluate whether IMPEP review criteria should be added or expanded to assess the outcome of program initiatives to bring licensees into compliance with rules and license conditions and to prevent recurrence of problems.

3. Examine the effectiveness of between-IMPEP interactions, such as the value of periodic meetings, the need for any modifications to the periodic meeting process, and the effectiveness or use of structured program self-audits between IMPEP reviews.

Exhibit 3 (continued)

4. Identify areas that should be considered for specific examination during IMPEP reviews on the basis of the review experience to date, such as the handling of complex or controversial licensing actions.

5. Reevaluate making the Organization of Agreement States (OAS) Liaison to the MRB a voting member of the MRB.

The working group collectively will be responsible for developing a final charter, establishing a work plan, monitoring progress, and preparing drafts of minutes and other products. The product of the working group will be a report discussing the various recommendations of the group.

SCHEDULE

Complete and submit report to the Director of STP within approximately 1 year.

LEVEL OF EFFORT EXPECTED OF PARTICIPANTS

A minimum of two several-day meetings are expected for this working group in addition to teleconferences. Working group participants will also be expected to review background information and draft products while not attending meetings. Drafting and revising the working group report will also be necessary. The expected period for the working group to complete this assignment will be approximately 6 months. Approximately 3 staff weeks of effort is expected for working group members.

Interactions with the Steering Committee should take place as necessary.

STEERING COMMITTEE

The following personnel will participate on the steering committee:

NRC Personnel:
Doug Collins, Region II
Don Cool, NMSS
Jesse Funches, CFO
Joseph Gray, OGC

Exhibit 3 (continued)

Paul Lohaus, STP
Cynthia Pederson, Region III
Martin Virgilio, NMSS

State Personnel:
Ed Bailey, CA
Robert Hallisey, MA

Working group meetings are not subject to the requirements of the Federal Advisory Committee Act (FACA), but they will be announced in advance through the NRC Public Meeting Notice System. Maximum use will be made of other appropriate media for facilitating interaction with the working group, for example, conference calls, facsimiles, and electronic mail. Working group meetings will be open to the public (unless predecisional information not normally publicly disclosed will be discussed) and will be held in the Washington, D.C., area or other locations as agreed upon by the working group members. Other persons attending working group meetings will be welcome to provide comments to the working group for its consideration in either written form or orally at times specified by the working group chair. Meeting minutes and draft and final documents produced by the working group will be publicly available from the NRC Public Electronic Reading Room, with the exception of exempt information.

Exhibit 4
Checklist for Establishing and Operating Internal NRC Working Groups

TASK	RESPONSIBILITY	TIME FRAME	MD 5.3 REFERENCE
Identify task, task leader, purpose, tentative schedule, etc	Lead Organization	Pre-kickoff meeting	5.3-03
Obtain TAC #	Task Leader	Pre-kickoff meeting	
Prepare request for working group members	Lead Organization	Pre-kickoff meeting	Part II
Send request to STP for distribution to OAS for working group members and, if applicable, steering committee members	Lead Organization	Pre-kickoff meeting	Part II/ Exhibit 1
Send request to NRC contacts for working group members and, if applicable, steering committee members	Lead Organization	Pre-kickoff meeting	Part II/Exhibit 1
OAS solicits a volunteer, notifies STP of individual appointer	OAS Chair	Pre-kickoff meeting	
OAS coordinates with CRCPD, as applicable	OAS Chair	Pre-kickoff meeting	
Inform Deputy EDO for STP of working group formation	STP	Pre-kickoff meeting	Part II
ID relevant documents	Lead Organization	Pre-kickoff meeting	
Distribute relevant information to working group members	Lead Organization /Co-Chairs	Prior to each meeting	
Review relevant information	Working Group / Steering Committee	Prior to each meeting	
Hold kickoff meeting	Co-Chairs	First meeting	
Finalize charter	Co-Chairs	First meeting	
Define ground rules, assign tasks, schedules	Co-Chairs	First meeting	

Exhibit 4 (continued)

TASK	RESPONSIBILITY	TIME FRAME	MD 5.3 REFERENCE
Prepare meeting minutes	Task Leader	30 days after meeting	Part V (2)
Inform management of relevant organizations	Task Leader / Working Group members	Ongoing	
Hold Working Group meetings	Task Leader	As needed	
Hold Steering Committee meetings, as applicable	Steering Committee and Working Group Chairs	As needed	
Prepare progress reports to Lead Organization, Steering Committee, as applicable	Task Leader / Working Group	Periodically, as defined by the working group	
Place relevant documents in ADAMS	Task Leader	As needed	
Prepare preliminary draft rule package / working group report	Task Leader, working group	180 days before final due	
Prepare final draft rule / working group report	Task Leader, working group	110 days before final due	
Submit final report to Steering Committee for approval	Task Leader	95 days before final due	
Send to STP and ADM for Agreement State comment	Task Leader	90 days before final due	
Track to final	Task Leader	Until final	
Decision to sunset	Lead Organization	At task completion	Part V

Legend
ADAMS - Agencywide Documents Access and Management System
ADM - Office of Administration
CRCPD - Conference of Radiation Control Program Directors
EDO - Executive Director for Operations
OAS - Organization of Agreement States
STP - Office of State and Tribal Programs
TAC - technical assignment control

Exhibit 5
Sample Request for Agreement State Participation in Internal NRC Working Groups

PURPOSE

The Rulemaking and Guidance Branch is soliciting an Agreement State representative to participate in an Internal NRC Working Group to re-evaluate a petitioner's (ANSI) request for rulemaking to operate an irradiator without a qualified operator on site.

BACKGROUND

The notice of receipt for PRM-36-01 was published in the *Federal Register* (63 FR 49298) on September 15, 1998. Prior to the events on 9/11, the staff had developed a rulemaking plan in response to the petitioner's request. In December 2001, the plan was put on "hold" pending security assessment for materials licenses. In June 2003, NRC imposed security Orders on panoramic irradiators. The purpose of the Working Group will be to evaluate the post-9/11 considerations from information obtained by NRC about security assessments, security inspections, and security concerns from previous NRC licensing actions that involved panoramic irradiators. Following a decision by the Working Group, the group will present its recommendation(s) to the NRC Petition Review Board.

SUGGESTED MEMBERSHIP

The working group should consist of approximately five members, as follows:

- NRC Task Leader
- Representative from the Agreement States appointed by the Organization of Agreement States (OAS)
- Representative from NMSS
- Representative from STP
- Representative from NSIR

Individuals who have experience with materials licensing, inspection, and security matters for panoramic irradiators would be particularly valuable to assist with this review.

Exhibit 5 (continued)

LEVEL OF EFFORT EXPECTED OF PARTICIPANTS

The expected period for the working group to complete this assignment will be approximately 6 months. The level of effort is expected to be no more than 1 week (e.g., 5 non-consecutive days). Drafting and revising the working group report will also be necessary. Working Group business will be conducted primarily by teleconference and e-mail.

The contact for this petition review is Thomas Young. Please notify Thomas Young of your designee at TFY@nrc.gov or 301-415-5795.