Joint NRC/Agreement State Working Group
Standing Committee on Compatibility
FINAL CHARTER

PURPOSE

The Standing Committee for Compatibility has been established as a Management Directive 5.3 working group to enhance the existing compatibility determination process. The Standing Committee for Compatibility will evaluate and document compatibility designations for program elements pursuant to Management Directive 5.9, Adequacy and Compatibility. The Standing Committee for Compatibility will serve to help ensure consistency during promulgation of regulations by documenting decisions on compatibility and their basis, take into account implementation issues and NRC staff's review of State regulations under the Integrated Materials Performance Evaluation Program.

BACKGROUND

NRC determines compatibility using Management Directive 5.9, adopted by the Commission in February 1998. This directive outlines the process by which compatibility recommendations are currently made. The Commission has the responsibility to establish compatibility for rules and program elements. In 1995, a Compatibility Working Group of Agreement State and NRC representatives evaluated the level of compatibility of all NRC rules. Since that time, various NRC staff have been making compatibility decisions without a specific effort to ensure the consistent application of Management Directive 5.9. This has resulted in some disagreements and misunderstandings among NRC staff and also between NRC and the Agreement States even with State participation on the working group for each rulemaking.

Based on the experience with the increased control legal binding requirements and the implementation of the Energy Policy Act of 2005 NARM regulations, and noted inconsistencies with NRC regulations, some State stakeholders and NRC staff believe the understandings and the intent of the original 1995 compatibility review group have not been strictly followed.

The committee will offer an independent review and assessment of the staff's designations for the compatibility designation for each new or revised program element, including regulations and other legal binding requirements to ensure consistence with MD 5.9.

MEMBERSHIP

The following personnel will serve as voting members on the working group:

NRC Personnel:
Duncan White, Branch Chief, SAISB, DMSSA, Co-chair
Kevin Hsueh, Branch Chief, Rulemaking Branch A, DILR
Joan Olmstead, OGC

State Personnel:
Ann Troxler, Louisiana, Co-chair
Organization of Agreement States' Director of Rulemaking,
Earl Fordham, Washington, CRCPD Suggested State Council Chair

The following personnel will serve as non voting members on the working group:
Kathleen Schneider, State Regulation Review Coordinator, SAISB, DMSSA, recording secretary
Monica Orendi, SAISB, DMSSA (alternate to the State Regulation Review Coordinator)

Secretarial support for the working group will be provided by DMSSA.

OBJECTIVES

The working group has three objectives.

1. Review of the compatibility determinations prior to or during office concurrences and State review for each rulemaking package, program element or legally binding requirements, (E.g. orders) so as not to be disruptive to the rulemaking or guidance schedule. The Standing Committee for Compatibility recommendations for each rule, program element or legally binding requirement will then be included in the Commission paper when a rule, program element or legally binding requirement is sent forward for Commission consideration.

2. Independent review of compatibility determinations brought to the Standing Committee for Compatibility by NRC and Agreement State staff (E.g., compatibility resolution documents or errors with previous compatibility determinations).

3. Documentation on compatibility decisions and their basis into the Agency's official filing system.

SCHEDULE

Meetings will be at least quarterly or more frequently as needed.

LEVEL OF EFFORT EXPECTED OF PARTICIPANTS

The level of effort will depend on the number of rules and program elements identified as matters of compatibility for Agreement States and the complexity of the program element. Historically, NRC promulgates 2-5 amendments per year that need to be adopted by Agreement States to maintain compatible programs with NRC. In addition, there may be at least 4 legal binding requirement or issues associated with existing program elements that will need to review per year.

MEETINGS

Meetings are pre-decisional and will be closed to the public.

Committee members may delegate an alternative representative for a specific meeting. The committee may also invite individual(s) to a meeting to participate as a resource to assist the Committee with a particular issue. However, at least one of the named co-chairs must be present during any meetings.

Available technology will be used to facilitate interaction with the standing committee members, (E.g., conference calls, facsimiles, and electronic mail). Standing Committee meetings, if necessary, will generally be held in the Washington, D.C., area unless alternate locations are agreed upon by the standing committee members. If travel is necessary, travel and per diem expenses for NRC-invited State working group participants will be in accordance with Handbook 5.3, Agreement State Participation in Working Groups, Part V, paragraph (J)(1).

STEERING COMMITTEE

Some rulemaking working groups may report to steering committees and the Standing Committee for Compatibility will interact with specific steering committees on a case-by-case basis.

/RA/	**06/30/08**
Duncan White, Co-Chair	Date

/RA/	**07/01/08**
Ann Troxler, Co-Chair	Date

ADAMS: ML081890126