



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 14, 1998

MEMORANDUM TO: Carl J. Paperiello, Director
Office of Nuclear Material Safety and Safeguards

FROM: Richard L. Bangart, Director
Office of State Programs *Richard L. Bangart*

SUBJECT: DRAFT REVISION TO INTEGRATED MATERIALS
PERFORMANCE EVALUATION PROGRAM (IMPEP)
HANDBOOK 5.6, PART IV, "PROGRAMMATIC ASSESSMENT"
PER JUNE 30, 1997 SRM

In the June 30, 1997 Staff Requirements Memorandum, SECY-97-54, Final Recommendations on Policy Statement and Implementing Procedures for: "Statement of Principles and Policy for the Agreement State Program" and "Policy Statement on Adequacy and Compatibility of Agreement State Programs," the Commission directed the staff to prepare guidance for the Management Review Board regarding adequacy and compatibility determinations. The Commission also directed that the guidance be such that Agreement States could perform self assessments of their programs, should they choose to do so, with some confidence that the NRC's review would produce similar conclusions.

Attached for your review and comments is a draft revision to Part IV of Integrated Materials Performance Evaluation Program (IMPEP) Handbook 5.6 which incorporates the guidance for the MRB and additional experience gained from Nebraska and New Mexico IMPEP reviews. We have also included for your concurrence, requested by January 22, 1998, an All Agreement States letter transmitting the draft guidance to the Agreement States requesting their comments within 30 days. We plan to incorporate, as appropriate, comments from the Agreement States within two weeks from the end of the comment period and prepare the revision to the Handbook in accordance with Management Directive (MD) 1.1, NRC Management Directive System. This would include transmittal to affected offices, including NMSS, AEOD, Regions, OGC and OIG for the comment and approval cycle. This MD approval process will provide an opportunity for other members of the MRB to review this revision.

Attachments:
As stated

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PDR STPRG ESQGEN
PDR

ROUTING AND TRANSMITTAL SLIP

DATE: JANUARY 15, 1998

CONCURRENCE REQUESTED

INITIALS

DATE

C. PAPERIELLO

1/ /98

LETTER TO:

ALL AGREEMENT STATES
OHIO, OKLAHOMA, PENNSYLVANIA

FROM:

RICHARD L. BANGART, DIRECTOR
OFFICE OF STATE PROGRAMS

SUBJECT:

DRAFT REVISION TO MANAGEMENT DIRECTIVE AND
HANDBOOK 5.6, PART IV, ON IMPEP

YOUR COMMENTS/CONCURRENCE ARE REQUESTED BY C.O.B. JANUARY 22, 1998.

OSP CONTACT: KATHY SCHNEIDER (415-2320)

PLEASE CALL KATHALEEN KERR (415-3340) FOR PICK UP.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

ALL AGREEMENT STATES
OHIO, OKLAHOMA, PENNSYLVANIA

TRANSMITTAL OF STATE AGREEMENTS PROGRAM INFORMATION (SP-98-)

Your attention is invited to the enclosed correspondence which contains:

INCIDENT AND EVENT INFORMATION.....

PROGRAM MANAGEMENT INFORMATION....XX DRAFT REVISION TO
MANAGEMENT DIRECTIVE AND
HANDBOOK 5.6, PART IV ON THE
INTEGRATED MATERIALS
PERFORMANCE EVALUATION
PROGRAM

TRAINING COURSE INFORMATION.....

TECHNICAL INFORMATION.....

OTHER INFORMATION.....

Supplementary Information: In the June 30, 1997 Staff Requirements Memorandum, SECY-97-54, Final Recommendations on Policy Statement and Implementing Procedures for: "Statement of Principles and Policy for the Agreement State Program" and "Policy Statement on Adequacy and Compatibility of Agreement State Programs," the Commission directed the staff to prepare guidance for the Management Review Board regarding adequacy and compatibility determinations. The Commission also directed that the guidance be such that Agreement States could perform self assessments of their programs, should they choose to do so, with some confidence that the NRC's review would produce similar conclusions.

Enclosed for your review and comments is a draft revision to Part IV of Integrated Materials Performance Evaluation Program (IMPEP) Management Directive and Handbook 5.6 which incorporates the guidance for the MRB and additional experience gained from IMPEP reviews. We would appreciate your comments by thirty days from your receipt of this letter.

If you have any questions about this correspondence, please contact me or the individual named below.

CONTACT:	Kathleen N. Schneider
TELEPHONE:	(301) 415-2320
FAX:	(301) 415-3502
INTERNET:	KXS@NRC.GOV

This information request has been approved by OMB 3150-0029, expiration April 30, 1998. The estimated burden per response to comply with this voluntary collection request is 3 hours. Forward any comments regarding the burden estimate to the Information and Records Management Branch (T-6 F33), U. S. Nuclear Regulatory Commission, Washington, DC. 20555-0001, and to the Paperwork Reduction Project (3150-0052), 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.

Richard L. Bangart, Director
Office of State Programs

Enclosure:
As stated

Part IV

Programmatic Assessment

General (A)

A management review board (MRB) will make the overall assessment of each NRC region's or Agreement State's program, on the basis of the proposed final report and recommendations prepared by the team that conducted the review of that region or State, including any unique circumstances. Additionally, the overall assessment will include a consideration of information provided by the region or State at the MRB meeting. In addition to a recommended overall finding, the proposed final report will contain the team's recommendations for each common indicator and each applicable non-common indicator for both Agreement States and NRC regions. (1)

The MRB will consist of a group of senior NRC managers, or their designees, to include--(2)

- Deputy Executive Director for Regulatory Programs, as Chair (a)
- Director, Office of Nuclear Material Safety and Safeguards (b)
- Director, Office of State Programs (c)
- Director, Office for Analysis and Evaluation of Operational Data (d)
- General Counsel (e)

The Organization of Agreement States also will be invited to specify a representative to serve as a member of each MRB, as a non-voting Agreement State liaison. In this capacity, the State representative will receive applicable documentation and engage in all MRB discussions. The Agreement State liaison does not have voting authority, since this function is reserved solely to NRC. The Agreement State liaison representative is expected to provide an Agreement State perspective on any matter that is voted on by the MRB. (3)

For an NRC region, the MRB will only assess the adequacy of the program to protect public health and safety. For an Agreement State program review, the MRB will assess both adequacy and compatibility. (4)

Adequacy Findings for Agreement State Programs (B)

Finding 1 -- Adequate to Protect Public Health and Safety (1)

- If the MRB finds that a State program is satisfactory for all performance indicators, the State's program will be found adequate to protect public health and safety, unless unique concerns that impact adequacy are identified. (a)
- If the MRB finds that a State program is satisfactory with recommendations for

improvement for two or less performance indicators and satisfactory for all remaining performance indicators, the MRB should consider whether the State's program is adequate or adequate but needs improvement. (b)

Finding 2 -- Adequate, But Needs Improvement (2)

- If the MRB finds that a State program is satisfactory with recommendations for improvement for two or less performance indicators and satisfactory for all remaining performance indicators, the MRB should consider whether the State's program is adequate or adequate but needs improvement. (a)
- If the MRB finds that a State program protects public health and safety, but is found satisfactory with recommendations for improvement for three or more performance indicators and satisfactory for the remaining performance indicators, the MRB should give strong consideration to finding the State's program adequate, but needs improvement. (b)
- If the MRB finds that a State program protects public health and safety, but is found unsatisfactory for one performance indicator and satisfactory or satisfactory with recommendations for improvement for the remaining performance indicators, the MRB should give strong consideration to finding the State's program adequate, but needs improvement. (c)
- In cases where previous recommendations associated with adequate, but needs improvement indicator findings have not been completed for a significant period of time beyond the originally scheduled date, the MRB also may find that the program is adequate, but needs improvement. (d)

Finding 3 -- Inadequate to Protect Public Health and Safety (3)

- If the MRB finds that a State program is not capable of reasonably assuring public health and safety for any reason, the MRB would find that the State's program is inadequate to protect public health and safety.

Compatibility Findings for Agreement State Programs (C)

Finding 1 -- Compatible (1)

- If the MRB determines that a State program does not create conflicts, gaps, or disruptive duplication in the collective national effort to regulate Atomic Energy Act materials, the program would be found compatible.

Finding 2 -- Not Compatible (2)

- If the MRB determines that a State program creates unnecessary gaps, conflicts, or disruptive duplication in the collective national effort to regulate Atomic Energy Act materials, the program would be found not compatible.

Adequacy Findings for NRC Regional Programs (D)

The MRB adequacy findings for regional programs will be the same as those listed above for Agreement States.

Guidance for MRB Determinations for Agreement State Programs (E)

For most Agreement State reviews, no action other than issuance of the final IMPEP report is needed. For those infrequent reviews where additional action is needed, the following alternatives should be considered.

Heightened Oversight Without Probation (1)

When one or more of the common and non-common performance indicators are found unsatisfactory and are of such safety significance that assurance of the program's ability to protect the public health may be degraded, heightened oversight by the NRC will be considered by the MRB. However, if strong commitments to improve their program have been made by the Agreement State at the Department Director management level, the MRB will consider heightened oversight without a formal declaration of probation, if the MRB believes the actions by the Agreement State will result in necessary program improvements and the State is capable of implementing those commitments. Heightened oversight without probation could include requests for an Agreement State program improvement plan, periodic Agreement State progress reports, periodic NRC/Agreement State conference calls, and a follow-up review by the IMPEP team.

Probation (2)

The MRB will consider probation for an Agreement State using OSP Internal Procedure D.23, "Procedure for Placing an Agreement State on Probation" as a reference. Probation is appropriate for MRB consideration when an Agreement State is found adequate but needs improvement or not compatible and any of the following circumstances occur: (a)

- When one or more of the common and non-common performance indicators are found unsatisfactory and are of such safety significance that assurance of the program's ability to protect the public health may be degraded, heightened oversight by the NRC is required, and heightened oversight without a formal declaration of probation may not result in necessary program improvements. (i)
- When previously identified programmatic deficiencies have gone uncorrected for a significant period of time beyond which the corrective actions had been originally scheduled for completion and the NRC is not confident of the State's ability to correct such deficiencies in an expeditious and effective manner without heightened oversight and a formal probation declaration by the NRC. (ii)

- When a program has repeatedly been late in adopting required compatibility elements and only heightened oversight by NRC together with a formal declaration of probation would yield improvements. (iii)

The following are examples of Agreement State program deficiencies where the MRB would consider probation for an Agreement State. This list is not all inclusive and other Agreement State program deficiencies may require consideration. (b)

- The Agreement State repeatedly fails to identify design deficiencies in follow-up analysis of events or incidents involving sealed sources and devices. (i)
- Inability to retain skilled staff resulting in increased backlog in inspections and deficiencies in the technical quality of inspection and licensing programs. (ii)
- Inability/difficulty in adopting regulations which could result in significant impacts across State boundaries or allows licensees to be subject to less stringent requirements than NRC requirements determined to be necessary to satisfy compatibility criteria. (iii)

Suspension (3)

The MRB will consider if suspension of an agreement is required to protect public health and safety, or if the State has not complied with one or more of the requirements of Section 274 of the Atomic Energy Act, in accordance with OSP Internal Procedure D.22, "Procedure for Suspension of a Section 274b Agreement" when any of the following circumstances occur: (a)

- In cases where the MRB finds that program deficiencies related to either adequacy or compatibility are such that the NRC must take action, the MRB will recommend to the Commission to suspend all or part of its agreement with the State. (i)
- In cases where the State radiation control program has not complied with one or more requirements of the Act, i.e., the State program is not compatible with the NRC program and the State has refused or is unable to address those areas previously identified as compatibility concerns and the non-compatibility is disruptive to the national program conducted by NRC and Agreement States for the regulation of Atomic Energy Act material. (ii)

Suspension, rather than termination, will be the preferred option in those cases where the MRB believes that the State has provided evidence that the program deficiencies are temporary and that the State is committed to implementing program improvements. (b)

Termination (4)

The MRB will consider termination for an Agreement State in accordance with OSP Internal Procedures D.21, "Procedure for Termination of a Section 274b Agreement" when any of the following circumstances occur: (a)

- The State radiation control program is found to be inadequate to protect public health and safety, and no compensating program has been implemented; (i)
- The State has been on probation for a period of time during which it failed to respond to NRC concerns regarding the State's ability to carry out a program to protect public health and safety; or (ii)
- The State radiation control program is not compatible with the NRC program and the State has refused, or is unable, to address those areas previously identified as compatibility concerns and the non-compatibility is significantly disruptive to the national program among NRC and Agreement States for the regulation of Atomic Energy Act material in accordance with an earlier agreed to corrective action plan. (iii)

The following are examples of situations where the MRB would consider recommending initiating formal procedures to terminate in agreement. This list is not all inclusive and other situations may require consideration. (iv)

- Significant loss of staff, which includes number of staff or those with critical skills, coupled with a State's inability to hire appropriate replacements. (i)
- Continual problems which manifest in the State's inability to perform adequate inspections or issue appropriate licenses. (ii)
- State's inability to adopt compatible program elements over a significant period of time (years) and nationally disruptive regulatory program conflicts, gaps, or duplication exist. (iii)
- Continued probationary or suspension status for a State program beyond the period originally envisioned. (iv)

Guidance for MRB Determinations for NRC Regional Programs (F)

Though not impossible, NRC believes that it is unlikely that a NRC regional program would deteriorate over a period of time such that the program would be found inadequate to protect public health and safety. The NRC headquarters office, NMSS, closely monitors the program status and quality of the regions. A significant weakness which would affect public health and safety would be addressed by adjustment of priorities and redirection of resources as necessary to address deficiencies. (1)

Though not impossible, NRC believes that it is unlikely that a NRC regional program would be found adequate but needs improvement. As noted above, NMSS closely monitors the daily activities of the regional programs and would redirect resources and adjust priorities as necessary to address deficiencies. (2)

If significant adequacy-related concerns are identified in a regional materials program by an IMPEP review, the same criteria for an Agreement State determination that a program is adequate, but needs improvement, should be used by the MRB. Program probation, suspension, and termination 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. (3)

This information request has been approved by OMB 3150-0029, expiration April 30, 1998. The estimated burden per response to comply with this voluntary collection request is 3 hours. Forward any comments regarding the burden estimate to the Information and Records Management Branch (T-6 F33), U. S. Nuclear Regulatory Commission, Washington, DC. 20555-0001, and to the Paperwork Reduction Project (3150-0052), 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.

Richard L. Bangart, Director
Office of State Programs

Enclosure:
As stated

Distribution:
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OSP Staff
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IMPEP File

DCD (SP03)
PDR (YES ☒) (NO ☐)

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*See Previous Concurrence.

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OSP FILE CODE: SP-A-4; SP-I-2

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SP-98-005

01-26-1998 (MON) 22:09

[BROADCAST]

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35615		20:28	701 328 5200	8	0' 03' 55"	NORM.E	OK
35616		20:32	503 731 4081	8	0' 03' 54"	NORM.E	OK
35617		20:38	8037377412	8	0' 04' 00"	NORM.E	OK
35618		20:42	615 532 7938	8	0' 04' 00"	NORM.E	OK
35619		20:46	51283467	8	0' 04' 28"	NORM.E	OK
35620		20:51	801 533 097	8	0' 04' 36"	NORM.E	OK
35621		20:56	360 753 1496	8	0' 03' 54"	NORM.E	OK
35622		21:00	518 457 2225	8	0' 04' 01"	NORM.E	OK
35623		21:05	518 457 5545	8	0' 04' 23"	NORM.E	OK
35624		21:09	NEW YORK CITY	8	0' 06' 05"	NORM.E	OK
35625		21:16	502 227 7862	8	0' 04' 26"	NORMAL	OK
35626		21:21	AECB (613) 995-5086	8	0' 04' 12"	NORMAL	OK
35627		21:25	WASHINGTON DC	8	0' 03' 55"	NORM.E	OK
35628		21:29	7996726	8	0' 03' 57"	NORM.E	OK
35629		21:34	217 782 1328	8	0' 04' 29"	NORM.E	OK
35630		21:39	512 239 6362	8	0' 04' 04"	NORM.E	OK
35631		21:43	4024714840	8	0' 05' 09"	NORMAL	OK
35632		21:48	912 262 3143	8	0' 04' 20"	NORMAL	OK
35633		22:09	RHODE ISLAND	0			U000
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SP-98-005

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01-26-1998(MON) 20:23

[BROADCAST]

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35591		18:23	7085151096	8	0' 11' 52"	NORM. E	OK
35592		18:36	817 860 8122	8	0' 03' 55"	NORM. E	OK
35593		18:40	5109750381	8	0' 04' 13"	NORM. E	OK
35594		18:44	334 206 5387	8	0' 07' 17"	NORM. E	OK
35595		18:52	602 437 0705	8	0' 04' 04"	NORM. E	OK
35596		18:56	5016612468	8	0' 04' 31"	NORM. E	OK
35597		19:01	916 323 6491	8	0' 04' 01"	NORM. E	OK
35598		19:05	303 343 3697	8	0' 04' 18"	NORM. E	OK
35599		19:10	904 487 0135	8	0' 04' 11"	NORM. E	OK
35600		19:15	404 362 2653	8	0' 04' 31"	NORM. E	OK
35601		19:19	217 524 4724	8	0' 04' 02"	NORM. E	OK
35602		19:24	IOWA	8	0' 03' 58"	NORM. E	OK
35603		19:28	913 296 0984	8	0' 04' 20"	NORM. E	OK
35604		19:33	502 564 6533	8	0' 03' 57"	NORM. E	OK
35605		19:37	LOUISIANA	0	0' 05' 08"	NORM. E	OK
35606		19:43	MAINE	8	0' 05' 14"	NORMAL	OK
35607		19:48	410 631 3198	8	0' 04' 31"	NORMAL	OK
35608		19:53	601+354+6167	8	0' 05' 30"	NORMAL	OK
35609		19:59	402 471 9449	8	0' 03' 53"	NORM. E	OK
35610		20:03	7026875751	8	0' 05' 31"	NORMAL	OK
35611		20:09	603 225 2325	8	0' 04' 04"	NORM. E	OK
35612		20:13	5058271544	8	0' 05' 11"	NORMAL	OK
35613		20:19	518 458 6434	8	0' 04' 03"	NORM. E	OK
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01-26-1998(MON) 15:03

[BROADCAST]

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35587		14:54	OKLAHOMA	8	0'04'21"	NORM.E	OK
35588		14:59	6177272098	8	0'04'28"	NORM.E	OK
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SP-98-005

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01-28-1998(WED) 09:23

[RECEIVE]

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01-28-1998(WED) 09:45

[TRANSMIT]

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