

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

MD 5.2	COOPERATION WITH STATES AT COMMERCIAL NUCLEAR POWER PLANTS AND OTHER NUCLEAR PRODUCTION OR UTILIZATION FACILITIES	DT-25-05
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<i>Approved By:</i>	John Lubinski, Director Office of Nuclear Material Safety and Safeguards	
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<i>Issuing Office:</i>	Office of Nuclear Material Safety and Safeguards State Agreement and Liaison Programs Branch	
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EXECUTIVE SUMMARY		
<p>Management Directive (MD) 5.2, “Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities,” is revised to—</p> <ul style="list-style-type: none">• Update organizational changes and authorities, as well as lessons learned to reflect NRC’s continued coordination and communication with States and State personnel.• Clarify roles and responsibilities and delegations of authority for affected offices.• Update the handbook to update the NRC’s information exchange with States and State Liaison Officers, State personnel observation of NRC meetings, State participation in and observation of NRC Inspections, State attendance at NRC pre-decisional enforcement and regulatory conferences, and NRC MOUs with States.• Eliminate outdated references.		

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I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to cooperate fully with State governments as they seek to respond to the expectations of their citizens that their health and safety be protected and that there be minimal impact on the environment because of NRC-licensed activities. The NRC and the States have complementary responsibilities in protecting public health and safety and the environment. Furthermore, the NRC is committed to the full and timely disclosure of matters affecting the public and to the fair and uniform handling of all agency interactions with the States, the public, and the NRC licensees.

II. OBJECTIVES

- Provide guidance on exchanging information with States on matters of interest to the States relating to the safe operation of NRC-licensed power plants and other nuclear production or utilization facilities (NRC-licensed facilities). These facilities can include nuclear reactors and fuel cycle facilities.
- Production or utilization facilities.
- Describe a process for allowing State representatives to attend, as observers, public meetings between the NRC and its licensees and applicants.
- Describe a process for allowing host and adjacent State representatives knowledgeable in radiological health and safety matters to observe specific inspections, or inspection entrance and exit meetings, or both.
- Describe a process for developing a specific instrument of cooperation (IOC) for host state participation in NRC inspections inspection entrance and exit meetings by qualified State representatives from States in which an NRC-licensed facility is located.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Commission

Approves policy matters related to cooperation with States and first-of-a-kind agreements proposed under the NRC's policy statement.

B. Executive Director for Operations (EDO)

Approves similar agreements, documented in formal memoranda of understanding (MOUs), following Commission policy direction for specific types of agreements.

C. Office of the General Counsel (OGC)

Provides regional administrators and the Director, NMSS, advice and assistance when drafting an MOU.

D. Director, Office of Nuclear Material Safety and Safeguards (NMSS)

1. Provides programmatic guidance for implementing the Commission's policy on cooperation with States.
2. Coordinates the communication of generic, agencywide activities with Governor-appointed State Liaison Officers (SLOs).
3. Coordinates the development of all MOUs for State involvement in NRC activities to ensure consistency with Commission policy.
4. Ensures that appropriate headquarters and regional offices have input into the development of all MOUs that may affect their respective responsibilities and/or resources.

E. Regional Administrators

1. Approve requests from host and adjacent States to observe inspections and inspection entrance and exit meetings at NRC-licensed facilities.
2. Approve requests from host States to participation in NRC inspections at NRC-licensed facilities.
3. Coordinate the communication of region-specific, site-specific, and other State matters of interest to Governor-appointed SLOs, their designees, or both.
4. Coordinate the response to State requests for information.
5. Coordinate the notification of SLOs, their designees, or both of public meetings between the NRC and its licensees so the State representatives may attend as observers.
6. Coordinate, as applicable, the notification of SLOs and their designees regarding NRC reactor or fuel facility inspections, so that state representatives may observe specific inspections, and inspection entrance and exit meetings.

7. Advise the Director, NMSS and other affected offices of initial inquiries from States regarding MOUs, or of an internally perceived need for MOUs.
8. Independently initiate discussion with States on the development of MOUs or when requested to do so by NMSS or another office.

F. Director of a Lead Office and Regional Administrators

1. Take the lead in drafting MOUs with the advice and assistance of OGC and other appropriate or affected offices and regions.
2. Ensure that MOUs are prepared in accordance with the instructions provided in MD 5.2 Handbook.

G. Directors of Affected Offices Other Than the Lead Office

1. Consult with the Director, NMSS, regional administrator(s), or a director of a lead office, as appropriate, on the development of MOUs affecting responsibilities and authorities of their office.
2. Appoint primary working-level contacts for MOUs affecting their program area.

IV. DEFINITIONS

Adjacent State(s)

The State (or States) within the plume-exposure pathway emergency planning zone (within approximately a 10-mile radius) of an NRC-licensed facility located in another State.

Host State

The State in which a specified NRC-licensed facility is located.

Instrument of Cooperation (IOC)

With respect to this policy, an IOC is documentation of agreed-upon, ongoing actions and expectations between NRC and a State regarding cooperation at commercial nuclear power plants and other nuclear production or utilization facilities. An IOC may be in the form of an informal Letter of Agreement or a formalized Memorandum of Understanding (MOU).

Lead Office

Any NRC headquarters program office responsible for the development of an IOC with a State, other than a regional office or NMSS.

V. APPLICABILITY

The policy and guidance in this MD applies to all NRC employees.

VI. DIRECTIVE HANDBOOK

Directive Handbook 5.2 provides guidelines for implementing the NRC policy statement entitled “Statement of Policy on “Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities” (57 FR 6462, February 25, 1992) (Policy Statement). The MD also provides current IOCs between the NRC and States, a model MOU for use as the basis of a formal IOC, and current MOUs for the States that use the Emergency Response Data System.

VII. REFERENCES

Code of Federal Regulations

10 CFR 50.72, “Immediate Notification Requirements for Operating Nuclear Power Reactors.”

10 CFR 50.91, “Notice for Public Comment; State Consultation.”

Office of the Federal Register

[“Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities: Policy Statement”](#) (57 FR 6462, February 25, 1992).

Nuclear Regulatory Commission Documents

COMSECY-10-0004, “Delegation of Signature Authority for Section 274i Agreements,” April 16, 2010 ([ML100541218](#)).

Management Directives—

9.26, “Organization and Functions, Office of Nuclear Material Safety and Safeguards.”

12.6, “NRC Controlled Unclassified Information (CUI) Program.”

12.7, “NRC Safeguards Information Security Program.”

NRC Enforcement Manual:

<http://www.nrc.gov/about-nrc/regulatory/enforcement/guidance.html>.

NRC Enforcement Policy:

<http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

United States Code

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

U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)

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I. PURPOSE

The U.S. Nuclear Regulatory Commission (NRC) mission to protect the public health and safety, provide for the common defense and security, and protect the environment, can be served by a policy of cooperation with State governments. The Commission has formally adopted a policy statement entitled “Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities” (57 FR 6462, February 25, 1992) (Policy Statement). These facilities can include nuclear reactors and fuel cycle facilities (NRC-licensed facilities). With respect to these NRC-licensed facilities, States, Tribes, and local governments may have the primary responsibility for offsite emergency

response while the NRC regulates operations and onsite activities. As a result, the Commission recognizes the interest of States in the security and operational safety of these NRC-licensed facilities and believes that the agency's mission can best be served by a policy of cooperation with State governments to facilitate the common goals of the NRC and the States. The Commission's policy statement of February 25, 1992, provides the basis for how NRC staff communicates and works with Governor-appointed State officials regarding oversight of such facilities. This handbook provides an overview of the historical basis for this policy, as well as implementation guidance for the NRC staff. This handbook outlines how the NRC staff interacts with States on matters pertaining to these NRC-licensed facilities in the following areas:

- A. Information exchanges;
- B. Observation of NRC public meetings;
- C. Observation of NRC inspections, and inspection entrance and exit meetings;
- D. Participation in NRC inspections; and
- E. Attendance at pre-decisional enforcement and regulatory conferences.

II. NRC STATE LIAISON OFFICER (SLO) PROGRAM DEVELOPMENT AND IMPLEMENTATION

- A. In the 1960s, the Atomic Energy Commission sought State input on siting concerns and environmental reviews for nuclear power reactor construction and operation applications. Often, this entailed contacting and coordinating with multiple State agencies and officials. The NRC established the State Liaison Officer (SLO) Program in 1976, in response to recommendations from the National Governors Association and other organizations, to coordinate with States more efficiently on such licensing efforts. Under this program, the NRC requested that Governors identify one individual to serve as the primary technical-level contact with the NRC on environmental questions of mutual interest. For this reason, many of the SLOs were originally selected from the State environmental agencies.
- B. Largely because of the Three Mile Island (TMI) accident, the scope of interactions between the NRC and States grew to encompass other operational aspects of the plants, as well as emergency planning and preparedness. The current program establishes a single point of contact in each State to provide the primary communication channel between the NRC and the States.

C. The NRC requests that the individual appointed as SLO be someone in whom the Governor has confidence and who is authorized to represent the State's official positions to the NRC. The individual should also be able to communicate directly, quickly, and effectively with the Governor's office. The Office of Nuclear Material Safety and Safeguards (NMSS) routinely communicates with SLOs on generic issues, holds periodic virtual seminars, and hosts routine national conferences (typically held at least on a triennial basis) on issues of State interest. The Governor-appointed SLO is intended to be the primary person in the State to—

1. Keep the Governor informed of issues under the jurisdiction of the NRC, including nuclear regulatory, security, and radiological public health and safety matters.
2. Inform and coordinate with other State agencies regarding these matters.
3. Answer NRC inquiries and provide the NRC with State information on nuclear safety, security, or environmental issues.
4. Provide communications and support to Federal, State, and local emergency agencies during emergency events.

D. Regional State Liaison Officers (RSLOs)

The RSLOs are the NRC points of contact for the SLOs within each NRC region. The NRC developed these full-time positions in 1977 to meet the States' increasing interest and involvement in nuclear materials.

III. NRC POLICY ON COOPERATION WITH STATES

A. Interactions between the NRC and the States regarding the regulation of nuclear power reactors is defined and governed by the Commission's Policy Statement. The policy statement stems from the Atomic Energy Act of 1954 (AEA), which was amended in 1959 to add Section 274, "Cooperation with States." Much of this section relates to the concept of the Agreement State program, by which States can enter into an agreement to assume regulatory authority over byproduct, source, and special nuclear material under critical mass. However, AEA Section 274(i) authorizes the NRC to "enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate." This subsection clarifies the NRC's authority to obtain the services of State personnel to perform functions on its behalf.

B. The NRC first proposed a formal policy statement outlining State involvement at NRC-licensed facilities in response to increasing State interest stemming from the TMI accident. State Governments, under pressure from citizens to ensure the protection of public health and safety, began asserting an oversight role at commercial power

reactors. Oregon installed a State Resident Inspector (authorized by State law) at the Trojan Plant in 1980. Similarly, in 1980, Pennsylvania passed its Radiation Protection Act and hired nuclear engineers to monitor nuclear power plant status.

- C. In 1984, the State of Illinois entered a Memorandum of Understanding (MOU) with the NRC to perform inspections of low-level waste activities at NRC-licensed facilities, including nuclear power plants. This was the first MOU of its kind, and its execution was soon copied in other States. Some States requested that their personnel be permitted to attend NRC inspections, inspection entrance and exit meetings, and enforcement conferences involving nuclear power reactors. This practice resulted in informal letter agreements with some States, outlining protocols for State observation of certain NRC activities.
- D. The NRC determined that increased cooperation would enhance States' understanding of the NRC's oversight and would, therefore, increase public confidence in the regulation of nuclear power. The Commission determined that there should be a uniform policy governing the agency's interactions with States regarding commercial nuclear power oversight. On February 22, 1989 (54 FR 7530), the Commission published a final policy statement that built upon the already established SLO program and expanded it to include NRC/State communications, opportunities for host States to observe NRC meetings and inspections, and a process by which host States may themselves conduct certain inspections on behalf of or in concert with the NRC. The NRC encouraged the States to revise pre-existing instruments of cooperation to meet the provisions of the policy statement, even though the letter agreements remained effective.
- E. Shortly after publication of this policy statement, the Commission approved interim implementation guidance outlining roles and responsibilities for both State observers and the NRC in a protocol agreement. On February 25, 1992, the Commission formally revised the policy statement to allow adjacent States to observe (but not to participate in) NRC staff inspections and inspection entrance and exit meetings. The revised policy statement also included an appendix containing criteria for the protocol agreements for State observation of NRC Inspections.

IV. INFORMATION EXCHANGE WITH STATES

A. Policy

The NRC will keep SLOs informed on matters of interest to the States. In general, all State requests for information or observation of NRC inspections should come from the SLO to the appropriate NRC regional office. Channeling all State inquiries through the SLO assures the Commission that NRC information of interest to the States will be sent forward to those State agencies that need to know. It also assures interested State agencies that their requests and inquiries will be handled in a uniform and businesslike manner.

B. Implementation

1. The NRC will make every attempt to respond to all requests from States for information on matters concerning NRC-licensed facilities safety within 30 days or less. The NRC will work to achieve a timely response to State recommendations relating to the safe operation of NRC-licensed facilities.
2. The level and areas of interest in matters involving nuclear power plants and other nuclear production or utilization facilities varies from State to State and may change over time. The RSLOs will continually communicate with the SLOs in their region to determine the type and frequency of information that States desire from the NRC. The RSLOs will also provide feedback to SLOs regarding the NRC management and staff requests to States.

C. Information To Communicate

Below are examples of the type of information that the NRC may provide to States. These examples are meant to be illustrative of the types of information that may be shared and are not meant to be all-inclusive or to be uniformly applied to all States. As mentioned previously, the information needs of each State are different and may vary over time.

1. Event Notifications (Other Than Emergency Classifications)

The RSLO routinely informs States (SLO or designee) of licensee events, particularly when the information will become publicly available. This notification includes events reported to the NRC under Title 10 of the *Code of Federal Regulations* (CFR) 50.72 (for reactors) and Appendix A to 10 CFR Part 70 (for fuel cycle facilities), events involving offsite response agencies (e.g., local law enforcement agencies), and events that may attract public or media interest. Ideally, these notifications should occur before the information is made available to the public.

2. NRC Actions

The RSLOs routinely inform States of the pending issuance of significant NRC actions, including escalated enforcement actions, orders, and confirmatory action letters. Such notifications should occur before the documents are released to the public and should consist of providing the State contact a copy of the document, if requested. The RSLOs will ensure sharing of such information with the SLO is consistent with the NRC's Sensitive Unclassified Non-Safeguards Information Program (and Controlled Unclassified Information Program (CUI), when implemented).

3. NRC Documents

The RSLOs routinely inform States of the pending issuance of NRC documents, including Preliminary Notifications, press releases, advisories, meeting notices, inspection reports, and licensing documents (licenses or requests for additional information) that are of high State or public interest. Even though States are included in the distribution of these documents, verbal or prompt electronic notification should occur before significant documents are released to the public and should consist of providing the State contact a copy of the document, if requested.

4. Reactor and Fuel Cycle Facility Licensing Changes

- (a) The RSLO should pay special attention to the NRC actions taken and documents issued that are related to significant events or licensing changes at commercial power reactor and fuel cycle facilities.
- (b) Examples of significant events or licensing actions include the issuance of construction permits, combined licenses, initial operating licenses, and/or authorizations to operate; notifications of permanent shutdown; and license termination. The RSLOs also consider the potential for significant impacts to State and local government programs and resources, and whether there is a high level of public interest. The RSLOs routinely maintain awareness of reactor decommissioning activities and milestones and coordinate with the responsible NRC headquarters office when the agency develops communication plans to inform State and local officials of key actions the NRC may take following the permanent shutdown of a commercial nuclear power plant. Examples of events or key NRC actions that may be of interest to a State include—
 - (i) Licensee submittals of decommissioning planning documents (Post-Shutdown Decommissioning Activities Report, License Termination Plan) and dates of associated NRC public meetings,
 - (ii) Licensing actions that relax Offsite Emergency Preparedness requirements,
 - (iii) Termination of the Emergency Response Data System data link,
 - (iv) Licensing actions related to the use of the Decommissioning Trust Fund, and
 - (v) NRC rulemaking activities associated with any of the above activities.

D. Requesting Information From States

As stated previously, the SLO is the Governor-appointed individual within each State with whom the NRC communicates. The RSLOs or the staff in the State Agreement and Liaison Programs Branch of the NMSS Division of Materials Safety, Security, State, and Tribal Programs provide information to the SLOs. SLOs can disseminate this information

to other interested States organizations that meet applicable need-to-know criteria. The SLO program also establishes the expectation of mutual information exchange, engendered by the complementary roles the NRC and the States play in protecting public health and safety. The NRC requests that the SLOs similarly inform the NRC of matters of interest to the agency, including—

1. State policies as expressed in proposed or enacted legislation, regulations, initiatives, referenda, official policy statements, significant press releases, and adjudicatory advisories or decisions;
2. Concerns within the State as expressed among agencies or other entities within State Governments;
3. Concerns expressed between State bodies and affected or interested local entities, Federally recognized Tribes, interstate and regional organizations, public interest groups, and industry; and
4. State comments on license amendments requested by power reactors in the State, as discussed in 10 CFR 50.91(b).

V. OBSERVATION OF NRC PUBLIC MEETINGS BY STATE PERSONNEL

A. Policy

The appropriate NRC regional office will, upon a State's request, routinely inform SLOs of the scheduling of public meetings. Host State or adjacent State representatives are free to attend as observers any public meeting between the NRC and its applicants and licensees.

B. Implementation

The RSLOs should inform SLOs of upcoming public meetings, including meetings involving licensees within the SLO's State or emergency planning zone (EPZ), and meetings on topics of high State or public interest. The RSLOs may verbally or electronically inform SLOs of such meetings and may provide an electronic copy of the meeting notice. The RSLOs should notify the NRC meeting contact of expected State attendance at an NRC public meeting so that the State attendee may be recognized and afforded the opportunity to ask a question or make a statement, as appropriate for the meeting category.

VI. OBSERVATION OF NRC INSPECTIONS AND INSPECTION ENTRANCE AND EXIT MEETINGS BY STATE PERSONNEL

A. Policy

If requested, the NRC will allow host States and adjacent States observation of NRC inspection, and inspection entrance and exit meetings requests from host States and adjacent States to observe NRC inspections, and inspection entrance and exit meetings will normally be coordinated through the RSLOs.

B. Implementation

1. Notice of Inspections

As stated previously, SLOs receive copies of all NRC inspection reports related to facilities within their States and EPZs. Regarding the NRC's Reactor Oversight Process, SLOs receive NRC regional mid-cycle and end-of-cycle letters, which include at least an 18-month look ahead NRC inspection schedule, to licensees for each site in that region summarizing the staff's review and assessment of that facility's performance and inspection findings. When made aware, the RSLOs will communicate to the SLOs any emergent inspections or inspection schedule changes so that State representatives are afforded the opportunity to observe associated inspection activities.

2. Observation Requests

All host State or adjacent State observation requests require the approval of the appropriate regional administrator, who may limit the scope and duration of the observation period if observation activities would compromise the efficiency or effectiveness of the inspection. The regional administrator may seek input from the relevant program office director before making a decision, when the program office is the lead for the activity.

3. Observation Protocol

- (a) State observers must sign a copy of the "Protocol Agreement for State Observation of NRC Inspections" (Exhibit 1) before conducting an observation. The regional administrator determines the periodicity with which this agreement must be signed (e.g., for each observation, annually). States will be informed that they must not release information concerning the time and purpose of unannounced inspections. Additionally, the NRC inspectors and staff will make it clear to the licensee that State views are not necessarily endorsed by the NRC, and that only the NRC has regulatory authority for inspection findings and enforcement actions regarding radiological health, safety, and security.

- (b) The State will be responsible for determining the technical and professional competence of its representatives who accompany NRC inspectors and staff; however, they must have some general understanding of the nature of nuclear power for the observation to be meaningful. The State observer will be expected to exhibit the same standard of professional conduct as NRC inspectors during the accompaniment. State observation may be terminated by the NRC if the observer's conduct interferes with a fair and orderly inspection.
- (c) A State observer accompanies an NRC inspector and staff at their own risk. The NRC will not be responsible for injuries or exposures to harmful substances that may occur to the accompanying individual during the inspection and will assume no liability for any incidents associated with the accompaniment. The State observer will remain in the company of NRC personnel throughout the course of the inspection. Before the actual inspection, the State will make advance arrangements with the licensee for site access training and badging (subject to requirements set forth in 10 CFR 73.55).
- (d) The State observer will communicate with the licensee through appropriate NRC staff (e.g., senior resident inspector or inspection team leader). If the State observer notices any apparent nonconformance with safety, security, or regulatory requirements during the inspection, they will make those observations promptly known to the NRC lead inspector/staff. If overall conclusions or views of the State observer are substantially different from those of the NRC staff, the State will advise the NRC lead inspector or team leader and forward those views, in writing, to the cognizant NRC region. This course of action will allow the NRC to take any necessary regulatory action. Under no circumstances should State communications regarding these inspections be released to the public or the licensee before they are reviewed by the NRC and the inspection report is issued. State communications regarding NRC inspection activities may be made publicly available as attachments to the NRC inspection reports after they have been transmitted to and reviewed by the NRC.
- (e) The adjacent State SLO must also communicate their observation request to the host State SLO so that each State is aware of the other's intentions. Normally, not more than one State representative will be allowed to observe an NRC inspection. If a host and an adjacent State request observation of the same inspection, the regional administrator or office director will make the final determination on the number of State observers who may accompany the NRC staff during the inspection. If there is a need to limit the number of observers, the regional administrator will normally give preference to the host State.

4. Information Security – Safeguards Information and Sensitive Unclassified Non-Safeguards Information (or Controlled Unclassified Information)
 - (a) Controlled Unclassified Information (CUI) includes, but is not limited to, Safeguards Information (SGI), security-related information, or proprietary information. A State observer is permitted to review (CUI), associated with certain types of inspections, provided the State observer meets the requirements for access to such information (e.g., for SGI 10 CFR 73.22(b) and 10 CFR 73.23(b)). Observers will not remove any material from the site without NRC or licensee approval, as appropriate. A State observer of such inspections may be required to complete a non-disclosure agreement in accordance with the licensee protocols. For more information on specific SGI requirements, see 10 CFR 73.21. For more information on CUI requirements, see MD 12.6, “NRC Controlled Unclassified Information (CUI) Program.”
 - (b) When the NRC implements the Controlled Unclassified Information (CUI) Program, any prior agency guidance for handling sensitive unclassified information will be superseded by the CUI Program policies and procedures. The RSLO will be responsible for ensuring that any State observers are afforded awareness of the changes included in CUI before the State observation of the inspection.

VII. STATE PARTICIPATION IN NRC INSPECTIONS

A. Policy

Section 161.f of the AEA gives the Commission broad discretionary authority to enter into arrangements with States. In 1959, Congress clarified this authority in Section 274i by stating that, “The Commission in carrying out its licensing and regulatory responsibilities under this Act is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate.”

B. Implementation

Accordingly, the NRC will consider host State participation in inspections and the associated inspection entrance and exit meetings where the State proposes an instrument of cooperation that proposes host State participation in specific NRC inspections and provides a program addressing the elements identified below.

1. State Program Elements

The proposed State program must—

- (a) Recognize the Federal Government, specifically the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authorities granted to States by the Clean Air Act;
- (b) Be in accordance with Federal standards and regulations;
- (c) Specify minimum education, experience, training, and qualifications requirements for State representatives that are patterned after those of NRC inspectors;
- (d) Contain provisions for the findings and observations of State representatives to be transmitted to the NRC for disposition;
- (e) Not impose an undue burden on the NRC and its licensees and applicants; and
- (f) Abide by NRC protocol not to publicly disclose inspection findings and observations before the release of the NRC inspection report.

2. NRC Approval

The Commission will decide policy matters related to proposed instruments of cooperation. Once the Commission has decided the policy on a specific type of instrument, similar State-proposed instruments may be approved, consistent with Commission policy, by the Executive Director for Operations. A State-proposed instrument of cooperation will be documented in an informal Letter of Agreement or a formalized MOU signed by the NRC and the State.

3. NRC Coordination

The NRC may develop inspection plans along with qualified State representatives using applicable procedures in the NRC Inspection Manual. Qualified State representatives may be permitted to perform inspections in cooperation with, and on behalf of, the NRC under the oversight of an authorized NRC representative. The degree of oversight provided would depend on the activity. For instance, State representatives may be accompanied by an NRC representative initially to assess the State inspector's preparedness to conduct the inspection independently. Other activities may be conducted using an inspection team approach, with the NRC taking the lead. All enforcement actions will be undertaken by the NRC.

4. NRC Reviews

Once the NRC has decided to enter into an MOU for State involvement in NRC inspections, a formal review, not less than 6 months after the effective date, will be conducted by the NRC to evaluate implementation of the MOU and resolve any identified problems. Final agreements will be subject to periodic reviews and may be amended or modified, upon written agreement by both parties and may be terminated upon 30 days' written notice by either party.

VIII. STATE ATTENDANCE AT PREDECISIONAL ENFORCEMENT AND REGULATORY CONFERENCES

The Commission's policy regarding State government attendance at predecisional enforcement and regulatory conferences, and guidance for its implementation, is described in Part 1, Section 1.2.15.2.D, "Stakeholder Attendance at PECs and Regulatory Conferences," of the NRC Enforcement Manual (current version available at <https://www.nrc.gov/about-nrc/regulatory/enforcement/guidance.html>).

IX. TEMPLATES AND ADDITIONAL GUIDANCE

The following templates and additional guidance can be found at.

https://usnrc.sharepoint.com/:f/t/external-sharing-nmss-msst-slpb/EhfdQH0_hlVMp6WwQ5iHBQABSZMqgal0UkEnUaEu2pA9EA?e=9mi5FH.

A. Templates

1. Sample Protocol Agreement for State Observation of NRC Inspections.

The following protocol is extracted from the Commission Statement of Policy on "Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" as published in the Federal Register on February 25, 1992 (see [57 FR 6462](#)).

2. Sample Memorandum of Understanding for the State of _____ Participation in U.S. Nuclear Regulatory Commission Inspections.

B. Additional Guidance

1. List of Current Memoranda of Understanding (MOUs) with States.
2. List of Current Memoranda of Understanding (MOUs) on the Emergency Response Data System (ERDS).