



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

(FSME-09-058, July, Program, SA-113, SA-122)

July 23, 2009

ALL AGREEMENT STATES, MICHIGAN, NEW JERSEY

OPPORTUNITY TO COMMENT ON DRAFT REVISION TO FSME PROCEDURES SA-113, "PLACING AN AGREEMENT STATE ON PROBATION," AND SA-122, "HEIGHTENED OVERSIGHT AND MONITORING" (FSME-09- 058)

Purpose: To provide the Agreement States with the opportunity to comment on the proposed revisions to the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedures SA-113, *Placing an Agreement State on Probation*, and SA-122, *Heightened Oversight and Monitoring*.

Background: Redline/strikeout copies of FSME Procedures SA-113 and SA-122

Discussion: Enclosed for your review and comment are the draft revisions to the FSME Procedures SA-113, *Placing an Agreement State on Probation*, and SA-122, *Heightened Oversight and Monitoring*. SA-113 procedure describes the process and guidelines used by NRC staff to place an Agreement State on probation. SA-122 defines the process and guidelines for placing an Agreement State on heightened oversight or monitoring. We would appreciate receiving your **comments within 30 days from the date of this letter**.

If you have any questions regarding this communication, please contact me at 301-415-3340 or the individual named below.

POINT OF CONTACT: Aaron T. McCraw
TELEPHONE: (630) 829-9650

INTERNET: Aaron.McCraw@nrc.gov
FAX: (630) 515-1259

Robert J. Lewis, Director **/RA/**
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:
FSME SA-113 Redline/Strikeout
FSME SA-122 Redline/Strikeout

*This information request has been approved by OMB 3150-0029, expiration 08/31/2010. The estimated burden per response to comply with this voluntary collection is approximately 8 hours. Send comments regarding the burden estimate to the Records and FOIA/Privacy Services Branch (T-5F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet e-mail to infocollects@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0029), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection 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, the information collection.



FSME Procedure Approval

Placing an Agreement State on Probation

SA-113

Issue Date:

Review Date:

Robert J. Lewis
Director, MSSA

Date:

A. Duncan White
Branch Chief, MSSA

Date:

Aaron T. McCraw
Procedure Contact, MSSA

Date:

NOTE

These procedures were formerly issued by the Office of State and Tribal Programs (STP). Any changes to the procedure will be the responsibility of the FSME Procedure Contact as of October 1, 2006. Copies of the FSME procedures will be available through the NRC website.



Procedure Title:
Placing an Agreement
State on Probation
Procedure Number: SA-113

Page: 1 of
Issue Date:

I. INTRODUCTION

This procedure describes the process used by the Nuclear Regulatory Commission (NRC) when placing an Agreement State program on probation.

II. OBJECTIVES

- A. To provide the guidelines that will be followed by the NRC when considering whether to exercise the authority contained in Section 274j.(2) of the Atomic Energy Act (Act), as amended, to place an Agreement State program on probation.
- B. To ensure that progress is being made to improve performance of the program relative to the areas identified as needing improvement without degradation of other parts of the Agreement State's radiation control program.
- C. To ensure an Agreement State on probation understands the process, its role, and any actions expected of the program.
- D. To monitor the progress of an Agreement State in restoring the radiation control program's performance to the criteria identified in Management Directive (MD) 5.6, *Integrated Materials Performance Evaluation Program (IMPEP)*.

III. BACKGROUND

- A. Section 274j. of the Act gives the Commission authority and responsibility for ensuring that Agreement State programs provide adequate protection of public health and safety and are compatible with NRC's program. In cases where the Commission finds that program weaknesses exist regarding the adequacy and/or compatibility of an Agreement State's program yet the weaknesses are not so serious as to find the program inadequate to protect public health and safety, one of the options available to ensure continued protection of public health and safety is to place the Agreement State on probation. Probation is also an option when an Agreement State on Heightened Oversight has not addressed program weaknesses identified in previous reviews during the period of Heightened Oversight (see [STPFSME Procedure SA-122, Heightened Oversight and Monitoring](#), for details on Heightened Oversight).
- B. The Commission Policy Statement, "Statement of Principles and Policy for the Agreement State Program," dated September 3, 1997, established the option of placing an Agreement State program on probation for program weaknesses regarding the adequacy and/or compatibility of an Agreement State program (see Sections F. through H. of policy statement).

- C. Probation is a formalized process, requiring Commission approval and notification to the Agreement State's governor, ~~which~~ **that** allows ~~the~~ NRC to maintain an increased level of communication with an Agreement State program experiencing program weaknesses regarding the adequacy and/or compatibility of the program. The process allows ~~the~~ NRC to ~~understand~~ **monitor** the actions being taken by the State to correct the identified weaknesses and the implementation schedule for those actions.

IV. ROLES AND RESPONSIBILITIES

A. Management Review Board (MRB):

1. Considers the results of Agreement State reviews under the Integrated Materials Performance Evaluation Program (IMPEP) and makes the final determination of the adequacy and compatibility of Agreement State programs (see ~~STP~~ **FSME** Procedure SA-106, *The Management Review Board*, for additional information on the MRB).
2. Recommends to the Commission to place an Agreement State on probation when program weaknesses regarding the adequacy and/or compatibility of the program are identified during an IMPEP review.
3. Evaluates special reviews of Agreement State programs conducted to assess a specific program weakness or weaknesses identified during periodic meetings or other interactions with Agreement State programs.
4. Considers improvements made by an Agreement State program and the resolution of action items from the Agreement State's Program Improvement Plan (see Section V.D.1. for more information on the Program Improvement Plan) to determine if a recommendation should be made to the Commission to lift the probationary status.
5. Evaluates the adequacy of an Agreement State's actions during a period of Heightened Oversight. If a programmatic weakness or weaknesses continue uncorrected throughout the period of Heightened Oversight, the MRB may elect to make a recommendation to the Commission to place the Agreement State on probation.

B. ~~Executive Director for Operations (EDO)~~ **Chair of the MRB**:

Submits the Commission Paper containing the MRB's recommendation that ~~the~~ NRC initiate the proceedings to place an Agreement State program on probation or to lift the probationary status of an Agreement State program.

C. ~~Director, Office of State and Tribal Programs (STP)~~ **Division of Materials Safety and State Agreements (MSSA)**:

1. Prepares and coordinates the Commission Paper recommending an Agreement State program be placed on probation or an Agreement State program's probationary status be lifted.
2. Coordinates the review of the Agreement State's Program Improvement Plan.
3. Coordinates all probation notifications (i.e., to the Governor, **to the State's Congressional delegation, to the appropriate Congressional committees, to the Federal Register-Notice, to** all of the Agreement State's licensees, and **to** all Agreement and Non-Agreement States).
4. **Coordinates with NRC's Office of Public Affairs (OPA) on the issuance of a press release announcing the probationary status of the Agreement State program.**
45. Coordinates follow-up IMPEP reviews of Agreement State programs on probation.

~~D. Director, Office of Congressional Affairs (OCA):~~

~~Notifies the appropriate Congressional committees and members of the Agreement State's Congressional delegation of the probationary status of the Agreement State program.~~

~~E. Director, Office of Public Affairs (OPA):~~

~~Issues a press release announcing the probationary status of the Agreement State program.~~

~~F. Regional State Agreements Officer (RSAO):~~

1. Leads and coordinates probation activities with the Agreement State program management and other NRC staff.
2. Reviews and comments on the Program Improvement Plan submitted by an Agreement State on probation.
3. ~~Prepares and coordinates draft agendas for each probation conference call with the Agreement State program management and other NRC staff.~~
43. Prepares minutes of all conference calls relating to the probation period, and coordinates the minutes with the Agreement State program management and other NRC staff to ensure a clear understanding of discussions **was recorded**.
54. Participates, as a team member, on followup IMPEP reviews.

~~GE.~~ Agreement State Project Officer (ASPO) **Office of Federal and State Materials and Environmental Management Programs (FSME) Designee:**

1. Participates, in coordination with the RSAO, in probation activities.
2. Participates in conference calls for assigned States.
3. Reviews and comments on the Program Improvement Plan submitted by an Agreement State on probation.

V. GUIDANCE

A. Process for Considering Probation

1. If the MRB identifies program weaknesses regarding the adequacy and/or compatibility of the Agreement State's program, but does not find the weaknesses so serious as to find the program inadequate to protect public health and safety, one of the options available to ensure continued protection of public health and safety is to recommend to the Commission placing the Agreement State on probation.
2. The MRB may decide to recommend placing an Agreement State program on probation based on the results of an IMPEP review, special review, or other interaction with the State. Major programmatic changes or evidence of poor program performance identified during a periodic meeting or other interaction with an Agreement State program may warrant the need for a special review to be conducted. A loss of key State personnel, a shift in resources to address specific State priorities, a pattern of weak State responses to events, or deliberate misconduct on the part of a State official could be factors in determining the need for a special review.
3. If the MRB determines probationary status is warranted, a meeting to discuss NRC concerns may be conducted by appropriate NRC representatives with ~~the responsible cabinet-level~~ **senior State** officials ~~of the Agreement State~~.
4. If it is the final recommendation of the MRB that ~~the~~ NRC place the Agreement State program on probation, ~~STP~~**MSSA** will prepare and coordinate the Commission Paper. The Commission Paper will contain the status of the Agreement State program, the MRB's recommendation, and any other pertinent information. The Commission Paper will be coordinated with the Offices represented on the MRB and the Region in which the Agreement State is located.
5. If the Commission approves the MRB's recommendation, the Agreement State program will be placed on probation.

B. Details of the Criteria

Probation may be considered when any of the following circumstances occur:

1. When weaknesses in one or more of the common and non-common performance indicators of an IMPEP review are found unsatisfactory and are of such safety significance that assurance of the program's ability to protect public health and safety may be degraded and increased oversight by ~~the~~NRC is required to ensure program improvements.
2. When programmatic weaknesses have gone uncorrected for a significant period of time and ~~the~~NRC is not confident of the Agreement State's ability to correct such weaknesses in an expeditious and effective manner without increased oversight by ~~the~~NRC.
3. When a program has repeatedly been late in adopting required compatibility elements and increased oversight by ~~the~~NRC would yield improvements.
4. When a program has remained on Heightened Oversight for a significant period of time and the results of an IMPEP review or other interaction with the Agreement State reveal that there has been little progress in achieving milestones identified in the State's Program Improvement Plan or addressing recommendations made during previous IMPEP reviews.

C. NRC Activities upon Commission Approval of Action

1. A letter to the Governor notifying him or her of the Agreement State program's probationary status will be sent (See Appendix A for a sample letter to the Governor of [State] probation). A copy of the letter will be placed in ~~the~~NRC's Agencywide Document Access and Management System (ADAMS). STPMSSA will draft the letter for the Chairman's signature and include it as an attachment to the Commission Paper recommending probation. The Chairman should discuss the letter with the Governor by telephone before it is mailed.
2. STPMSSA will prepare and dispatch a letter to the Agreement State radiation control program director requesting that the Agreement State develop a Program Improvement Plan and submit it to the Chair of the MRB within 30 days of receipt of the letter.
3. Notice of the probationary status of the Agreement State program will be published in the *Federal Register* (see Appendix B for a sample *Federal Register* Notice).
4. STPMSSA will prepare and dispatch a letter to all Agreement and Non-Agreement States notifying them of the action.

5. ~~A press release will be prepared and issued by~~ **MSSA will coordinate with OPA to issue a press release.**
6. ~~STP~~**MSSA will coordinate with NRC's Office of Congressional Affairs in order to notify the appropriate Congressional committees and members of the Agreement State's Congressional delegation.**

D. Elements of Probation

1. State Program Improvement Plan

- a. The Program Improvement Plan (~~Plan~~) must include actions to address the recommendations in the final IMPEP report. It must fully discuss root causes for weaknesses and include short- and long-term corrective actions that target the identified root causes. The **Program Improvement Plan** must contain dates of expected actions, **detail the products to be developed or implemented**, and indicate the person(s) responsible for each product. (See Appendix ~~B~~ of ~~STP~~**FSME** Procedure SA-122, *Heightened Oversight and Monitoring*, for an example of a **Program Improvement Plan**.) The **Program Improvement Plan** will be reviewed by the responsible RSAO and ~~ASPO~~**the FSME Designee**. Preliminary review results will be discussed at the first conference call. A formal letter from the Chair of the MRB will be sent to the Agreement State acknowledging receipt and approval/disapproval of the Plan. The letter will also include any comments from the review of the Plan.
- b. ~~The~~ NRC and the Agreement State program ~~managements~~**rs** may meet to discuss the **Program Improvement Plan**, comment, and subsequently agree with the milestones. This meeting may determine the projected duration of the probationary period. Normally, the probationary period will be ~~one~~**1** year or less, but may be extended based on extenuating circumstances.

2. Periodic progress reports.

The reports should be brief, concise summaries of the status of State actions and include an updated **Program Improvement Plan**. The report and updated **Program Improvement Plan** should be sent to the RSAO approximately ~~two~~**2** weeks before the next scheduled conference call.

3. Periodic NRC/State conference calls.

- a. These calls are designed to maintain open communications between the Agreement State and NRC. The calls will involve Agreement State ~~managements~~**rs** responsible for improving the program and the IMPEP team leader, the ~~ASPO~~**FSME Designee**, the RSAO, and other NRC or State staff, as needed.

- ~~b. A draft agenda, coordinated with Agreement State management and NRC staff, will be prepared by the RSAO and distributed at least one week prior to the call.~~
 - ~~c. The periodic calls normally will occur at least bimonthly, unless directed otherwise by the MRB.~~
 - ~~d. As elements of the Plan are completed by the Agreement State, the accomplishments will be noted in the conference call summaries and need not be included in future State progress reports.~~
4. Followup IMPEP review
- a. The MRB will determine when a followup IMPEP review will be performed to evaluate State progress in resolving weaknesses. Normally, the followup review will occur ~~one~~ 1 year after the original review that commenced the probationary period. (See STPFSME Procedure SA-119 for additional information on followup reviews.)
 - b. The results of a followup IMPEP review may be the basis for the MRB's decision to recommend to the Commission discontinuation of probation or further action against the Agreement State.
 - i. If the MRB finds the Agreement State program is satisfactory for all performance indicators, the MRB should recommend discontinuation of the probationary period. Based on the results of the review and the information obtained during the MRB meeting, the MRB should determine if additional oversight of a lesser degree, such as Heightened Oversight or Monitoring, is necessary to ensure the stability of the Agreement State program and its improvements.
 - ii. If the MRB finds the Agreement State program is improving and resolving the recommendations from the last IMPEP review; however the program is still found satisfactory, but needs improvement, ~~in~~for one or more performance indicators, the MRB should recommend discontinuation of the probationary period and placing the Agreement State on Heightened Oversight or Monitoring.
 - iii. If the MRB finds the Agreement State program is not improving or resolving the recommendations from the last IMPEP review in a timely manner and the program is found unsatisfactory for one or more performance indicators, the MRB may elect to recommend continuation of the probationary period or may direct STPMSSA to prepare a Commission paper requesting approval for an appropriate next action, which may include suspension or termination of the Agreement (see STPFSME Procedure SA-114, *Suspension of a Section 274b. Agreement* and STPFSME Procedure SA-115, *Termination of a Section 274b. Agreement*).

E. Additional Actions for Programs on Probation**1. NRC/State management meetings**

The NRC may offer to meet with Agreement State officials to discuss State actions to improve the radiation control program.

2. NRC technical assistance

NRC and the Agreement State may discuss NRC technical assistance in accordance to the guidance in NRC Management Directive 5.7, *Technical Assistance to Agreement States*.

F. Discontinuation of Probationary Status

1. Once all items in the Plan have been executed and deemed closed based on the results of an IMPEP review of the Agreement State's actions, the MRB may convene to review improvements and may consider recommending to the Commission to lift the probationary status. The MRB may find it more beneficial to hold the discussion of the completion of the Plan so it coincides with the MRB meeting for the followup review.
2. If the MRB determines that the Agreement State has fulfilled the commitments in the Plan and the MRB is satisfied with the performance of the Agreement State program based on the results of an IMPEP review, the MRB should recommend to the Commission that the probationary status be lifted.
3. In the event that the Agreement State does not complete the actions identified in the Plan within a reasonable time period and extenuating circumstances do not exist, the MRB should consider whether the Agreement should be suspended or terminated.
4. STPMSSA will be assigned the lead for preparation and coordination of the Commission Paper containing the MRB's recommendation. The Commission Paper will include the current status of the Agreement State program, the recommendation of the MRB, and any other pertinent information supporting the MRB's decision. The Commission Paper will be coordinated with the Offices represented on the MRB and the Region in which the Agreement State is located.
5. If the Commission approves lifting the probationary status, notification of such change will be made following the same process outlined in Section V.C.1-6 above.
6. If the Commission approves further action against the Agreement State, the process and guidelines in STPFSME Procedure SA-114, *Suspension of a Section 274b. Agreement* or STPFSME Procedure SA-115, *Termination of a Section 274b. Agreement* will be followed.

VI. APPENDIXES

Appendix A - Sample Letter to the Governor of [State] Probation
Appendix B - Sample *Federal Register* Notice

VII. REFERENCES

1. NRC Management Directive 5.6, *Integrated Materials Performance Evaluation Program (IMPEP)*.
2. NRC Management Directive 5.7, *Technical Assistance to Agreement States*.
3. *Statement of Principles and Policy for the Agreement State Program*, dated September 3, 1997.
4. STPFSME Procedure SA-106, *The Management Review Board*.
5. STPFSME Procedure SA-114, *Suspension of a Section 274b. Agreement*.
6. STPFSME Procedure SA-115, *Termination of a Section 274b. Agreement*.
7. STPFSME Procedure SA-119, *Followup IMPEP Reviews*.
8. STPFSME Procedure SA-122, *Heightened Oversight and Monitoring*.

VIII. ADAMS REFERENCE DOCUMENTS

For knowledge management purposes, all previous revisions of this procedure, as well as associated correspondence with stakeholders that have been entered into NRC's Agencywide Documents Access and Management System (ADAMS) are listed below.

No.	Date	Document Title/Description	Accession Number
1	11/24/00	STP Procedure SA-113	ML010180096
2	7/15/05	STP-05-054, Opportunity to Comment on Draft Revision to STP Procedure SA-113	ML051990496
3	5/16/06	STP-06-046, Final STP Procedure SA-113	ML061380780
4	5/16/06	STP Procedure SA-113	ML061430106
5	5/16/06	STP Procedure SA-113 (redline/strikeout)	ML061430118
6	5/16/06	Summary of Comments on SA-113	ML040620654

Appendix A

Sample Letter to the Governor of [State] Probation

Dear Governor [Name]:

As you may be aware, under Section 274 of the Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission (NRC) retains the authority and responsibility for ensuring that Agreement State programs continue to provide adequate protection of public health and safety, and that they are compatible with NRC's program for regulating radioactive materials. The Commission may place an Agreement State program on probation if the Commission is not confident that the State can address program weaknesses in an expeditious and effective manner without increased oversight by the NRC.

The last review of the [State] radiation control program found program weaknesses related to the adequacy and/or compatibility of your Agreement State program. Correction of these weaknesses is necessary to provide adequate protection of public health and safety in [State]. The Commission has further determined that while making the necessary corrections, the [State] program would benefit from increased NRC oversight. The Commission is, therefore, placing the [State] radiation control program on probation. Staff from the [State] radiation control program have been involved in the discussions leading to this decision.

The [State] radiation control program staff will be requested to provide NRC staff a "Program Improvement Plan" describing actions to be taken to address the identified weaknesses, including specific goals and timetables. NRC staff will work with your staff throughout the probationary period. Normally, the probationary period is approximately one year, but it could be extended based on extenuating circumstances. Once the Commission determines that the commitments in the "Program Improvement Plan" have been met and that the radiation control program has demonstrated significant improvements in program performance, the probationary status will be lifted.

Let me assure you that the Commission has not taken this action lightly. I will be happy to answer any questions you may have, or your staff may contact [Name], Director, Office of **Federal and State Materials and Tribal Environmental Management** Programs, at [telephone number].

Sincerely,

Chairman

cc: [SLO]
[RCPD]

Appendix B

Sample *Federal Register* Notice

Placement of State Radiation Control Program on Probation

AGENCY: U.S. Nuclear Regulatory Commission (NRC)

ACTION: Notice of State Radiation Control Program Being Placed on Probation

SUMMARY:

NRC is announcing the placement of the [State] radiation control program for regulation of certain Atomic Energy Act materials on probation and initiating increased NRC oversight of the program, as well as overseeing implementation of a "Program Improvement Plan" developed by the staff of the [State] radiation control program. Once the radiation control program has met the commitments made in the "Program Improvement Plan," and has demonstrated significant improvements in program performance, the probationary status will be lifted. There will be further announcements of that action.

FOR FURTHER INFORMATION CONTACT:

[~~STP~~Contact], Office of **Federal and State Materials** and **Tribal Environmental Management** Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone [telephone number].

SUPPLEMENTARY INFORMATION:

Under Section 274 of the Atomic Energy Act, as amended, the Commission retains the authority and the responsibility to assure that Agreement State programs continue to provide adequate protection of public health and safety, and to be compatible with NRC's program with respect to the regulation of the materials and uses authorized under the Agreement. Agreement States are States which have assumed regulatory authority from ~~the~~ NRC over the possession and use of certain radioactive materials. The Commission Policy Statement, "Statement of Principles and Policy for the Agreement State Program," established the option of placing an Agreement State radiation control program on probation for program weaknesses that require increased NRC oversight.

The Commission, through its Management Review Board (MRB), has considered the State of [State's Name] radiation control program and has agreed with the findings of the MRB, as well as with its recommendation to place the program on probation. [Narrative of the MRB findings].

The State has been requested to develop a "Program Improvement Plan" and submit it to the NRC within 30 days. The plan should describe actions taken by the State to address weaknesses, including specific goals and milestones. The Commission expects that the

probationary period will be one year or less, but could be extended based on extenuating circumstances.

Once the MRB determines that the Agreement State has met the commitments in the "Program Improvement Plan" and has demonstrated significant improvements in program performance, a recommendation will be made to the Commission that the probationary status be lifted. Upon Commission approval, the probationary status will be lifted. Notification of discontinuance of probation will be made to the Agreement State's Governor, the Agreement State's Congressional delegation, and all other Agreement and Non-Agreement States. The NRC will also publish a *Federal Register* Notice and a press release announcing the discontinuance of probation for [State].



FSME Procedure Approval

Heightened Oversight and Monitoring

SA-122

Issue Date:

Review Date:

Robert J. Lewis
Director, MSSA

Date:

A. Duncan White
Branch Chief, MSSA

Date:

Aaron T. McCraw
Procedure Contact, MSSA

Date:

NOTE

These procedures were formerly issued by the Office of State and Tribal Programs (STP). Any changes to the procedure will be the responsibility of the FSME Procedure Contact as of October 1, 2006. Copies of the FSME procedures will be available through the NRC website.



Procedure Title:
**Heightened Oversight
and Monitoring**
Procedure Number: SA-122

Page: 1 of
Issue Date:

I. INTRODUCTION

This document describes the procedures used by the Nuclear Regulatory Commission (NRC) to conduct heightened oversight or monitoring of an Agreement State program.

II. OBJECTIVES

- A. To provide the guidelines that will be followed by the NRC when significant performance weaknesses are identified in an Agreement State radiation control program, which that do not necessitate probation, immediate suspension, or termination of the agreement.
- B. To ensure that progress is being made to improve performance of the program relative to the areas identified as needing improvement, without degradation of other parts of the Agreement State's radiation control program.
- C. To ensure an Agreement State on heightened oversight or monitoring understands the process, their role, and any actions expected of them.
- D. To assist an Agreement State in restoring the radiation control program's performance to the criteria in Management Directive (MD) 5.6, *Integrated Materials Performance Evaluation Program (IMPEP)*.

III. BACKGROUND

- A. Section 274j. of the Atomic Energy Act gives the Commission authority and responsibility for ensuring that Agreement State programs continue to provide adequate protection of public health and safety and are compatible with NRC's program. In cases where the Commission finds that significant program weaknesses exist regarding the adequacy and/or compatibility of the Agreement State's program, several options are available to ensure continued protection of the public.
- B. If the areas needing improvement are serious enough such that the NRC determines that the program is inadequate to protect public health and safety, probation, emergency suspension, suspension, or termination of the Agreement State program should be considered. If the areas needing improvement are not serious enough to find the program inadequate to protect public health and safety, either probation, heightened oversight, or monitoring of the Agreement State program, by NRC, is warranted.
- C. Heightened oversight is a formalized process which that allows the NRC to maintain an increased level of communication with an Agreement State program experiencing significant program weaknesses. It allows NRC to understand monitor the actions being taken and the implementation schedule for those actions that address the weaknesses identified in the Agreement State program. The decision to place an Agreement State

program on heightened oversight is made by the Management Review Board (MRB), based on the results of an IMPEP review, a periodic meeting (see FSME Procedure SA-116, *Periodic Meetings Between IMPEP Reviews*, for more information on periodic meetings), or other interaction with the Agreement State program. (See Section V. for criteria).

- D. Monitoring is an informal process ~~which~~that allows the NRC to maintain an increased level of communication with an Agreement State program. Monitoring is implemented in cases where weaknesses in a program have resulted in, or could result in, less than fully satisfactory performance for one or more performance indicators. Monitoring may be considered based on results of an IMPEP review, a followup IMPEP review, ~~or~~a periodic meeting, or other interaction with the Agreement State program.

IV. ROLES AND RESPONSIBILITIES

A. Management Review Board (MRB):

1. Makes the final decision on the adequacy and compatibility of an Agreement State program under IMPEP (see FSME Procedure SA-106, *The Management Review Board*, for additional information on the MRB).
2. Determines whether an Agreement State program will be placed on heightened oversight **or monitoring** based on the results of an IMPEP review, a periodic meeting, or other interaction with the Agreement State program.
3. ~~Determines whether an Agreement State program will be placed on monitoring based on the results of IMPEP reviews, periodic meetings or other or information provided to the MRB.~~
4. ~~Designates a period of time for the heightened oversight or monitoring process.~~
54. Considers improvements made by an Agreement State program and the resolution of the IMPEP review team's recommendations to determine if the heightened oversight **or monitoring** process should be discontinued. Results from **an IMPEP review**, a followup IMPEP review, **or a periodic meeting** will provide a basis for the decision.
65. ~~Considers improvements made by an Agreement State program and the resolution of the IMPEP team's recommendations to determine if the monitoring process should be discontinued. Results from IMPEP reviews, periodic meetings or other information provided by the State may provide a basis for the decision.~~
7. ~~Considers placing a State on continued oversight or monitoring or~~Directs the Office of **Federal and State Materials** and Tribal **Environmental Management** Programs (STPFSME) to prepare a Commission paper requesting approval for an appropriate next action when an Agreement State does not correct the weaknesses that led to

heightened oversight status. Options for appropriate next actions may be found in the following STPFSME Procedures: SA-113, *Placing an Agreement State on Probation*; SA-114, *Suspension of a Section 274b. Agreement*; or SA-115, *Termination of a Section 274b. Agreement*.

B. Director, STP **Division of Materials Safety and State Agreements (MSSA)**:

1. Keeps the MRB informed of the status of Agreement State programs that are subject to the heightened oversight or monitoring process.
2. Coordinates followup IMPEP reviews (see STPFSME Procedure SA-119, *Followup IMPEP Reviews*) of Agreement State programs.
3. Reports annually to the Commission on the status of **the Agreement States, focusing on those** on heightened oversight or monitoring.
4. Prepares the letter transmitting the final IMPEP report to the Agreement State when a State is placed on heightened oversight **or monitoring**. ~~(See Appendix A for sample letter.)~~
- ~~5. Prepares the letter transmitting the final IMPEP report to the Agreement State when a State is placed on monitoring status. (See Appendix B for sample letter.)~~
- 6**5. Prepares and transmits notification of Agreement States placed on heightened oversight and monitoring to the Commissioners' assistants through the Office of the Executive Director for Operations.
- 7**6. Prepares, based on the MRB's consideration of the results of the followup review, a Commission paper requesting approval for additional actions if the Agreement State program does not address the weaknesses that led to heightened oversight status. The Commission paper will include the status of the Agreement State program, recommendations of the MRB, and any other pertinent information.

C. IMPEP Team Leader:

1. Recommends to the MRB whether an Agreement State program should be placed on heightened oversight or monitoring, based on the results of an IMPEP review or a followup IMPEP review of the Agreement State program.
2. Provides assistance and support to the Regional State Agreements Officer (RSAO) for heightened oversight or monitoring activities.

D. RSAO:

1. Leads and coordinates heightened oversight or monitoring activities with the Agreement State program management and other NRC staff.

- ~~2. Prepares and coordinates draft agendas for each heightened oversight or monitoring conference call with the Agreement State program management and other NRC staff. (See Appendices C.1 and C.2 for sample conference call agendas, respectively.)~~
- ~~3. Prepares minutes of all conference calls relating to the heightened oversight or monitoring process, and coordinates the minutes with the Agreement State program management and other NRC staff to ensure a clear understanding of discussions were recorded. (See Appendices D.1 and D.2A for a sample conference call summaries, respectively.)~~
43. Ensures that heightened oversight or monitoring correspondence; such as letters, conference call minutes, and e-mail messages; is entered into NRC's Agencywide Documents Access and Management System (ADAMS).
54. Participates, as a team member, on followup IMPEP reviews.
65. Recommends heightened oversight or monitoring of an Agreement State program, to STP in coordination with the Agreement State Project Officer (ASPO) FSME Designee, for consideration by the MRB, based on the results of a periodic meetings, an orientation meetings, or another communications interaction with an Agreement State program.
76. Reviews and comments on the pProgram iImprovement pPlan (see Section V.C.1.a. for further details) submitted by an Agreement State on heightened oversight.

E. ASPO FSME Designee:

1. Participates, in coordination with the RSAO, in heightened oversight or monitoring activities for assigned States.
2. Participates in conference calls for assigned Agreement States.
3. Reviews and comments on the pProgram iImprovement pPlan submitted by an Agreement State on heightened oversight.

~~F. IMPEP Team Member:~~

- ~~1. Participates, in coordination with the RSAO, in heightened oversight or monitoring activities, as requested.~~

G. Agreement State Program Managementr(s):

1. Coordinates heightened oversight or monitoring activities with NRC.

2. Develops and implements a ~~p~~Program ~~i~~Improvement ~~p~~Plan during the heightened oversight period.
3. Prepares and submits periodic progress reports during the heightened oversight period.
4. Participates in heightened oversight or monitoring conference calls.

V. GUIDANCE

A. Heightened Oversight Criteria

1. If the MRB finds an Agreement State program is unsatisfactory for one or more ~~common or non-common~~ IMPEP performance indicators, the MRB will consider placing the program on heightened oversight ~~as described in MD 5.6.~~
2. The MRB may decide to place an Agreement State program on heightened oversight based on the results of a periodic meeting or other interactions with the Agreement State program. The loss of key State personnel, a shift in resources to address specific State priorities, a pattern of weak State responses to events, or deliberate misconduct on the part of a State official could be factors in the decision process.
3. The MRB may consider heightened oversight, as opposed to probation or suspension, if senior Agreement State management makes ~~s~~ strong commitments to improve their program. The MRB should be confident that the State is capable of implementing those commitments and that the actions by the Agreement State will result in necessary program improvements.
4. The normal duration of the heightened oversight process is ~~one~~ 1 year unless otherwise directed by the MRB. ~~(See Section V.C.3 for guidance on MRB action to extend or discontinue heightened oversight.)~~

B. Monitoring Criteria

1. Monitoring of an Agreement State program may be appropriate if heightened oversight is not warranted, but a program performance weakness is identified during an IMPEP review, a periodic meeting, or other information provided by an Agreement State program.
2. Monitoring may also be considered, after implementation of a ~~p~~Program ~~i~~Improvement ~~p~~Plan under heightened oversight, to provide continued assurance that an Agreement State maintains a fully adequate and compatible radiation control program.
3. The normal duration of the monitoring process is until the next IMPEP review or periodic meeting unless otherwise directed by the MRB.

C. Required Elements of Heightened Oversight and Monitoring**1. Heightened Oversight****a. State ~~p~~Program ~~i~~mprovement ~~p~~Plan.**

The ~~p~~Program ~~i~~mprovement ~~p~~Plan should be comprehensive and **must** include actions to address the recommendations in the final IMPEP report. It ~~should~~**must** fully ~~discuss root~~**address the underlying** causes for weaknesses and include short- and long-term corrective actions that target the identified ~~root~~ causes. The plan ~~should also~~ **must** contain dates of expected actions, products **to be developed or implemented**, and indicate the person(s) responsible for each product. (See Appendix ~~E~~**B** for an example of a ~~p~~Program ~~i~~mprovement ~~p~~Plan.) The program improvement plan should be submitted to the Chair of the MRB ~~within 30 days of receipt of the final IMPEP report.~~ The ~~p~~Program ~~i~~mprovement ~~p~~Plan will be reviewed by the RSAO, **the FSME Designee**, and ~~ASPO~~**any other necessary NRC staff**. Preliminary review results will be discussed at the first conference call. A formal letter ~~from the Chair of the MRB~~ will be sent to the Agreement State acknowledging receipt **and approval/disapproval** of the ~~p~~Program ~~i~~mprovement ~~p~~Plan. The letter will **also** include any comments from the review of the ~~p~~Program ~~i~~mprovement ~~p~~Plan.

b. Periodic progress reports.

The reports should be brief, concise summaries of the status of State actions and include an updated ~~p~~Program ~~i~~mprovement ~~p~~Plan. The report and updated ~~p~~Program ~~i~~mprovement ~~p~~Plan should be sent to the RSAO approximately ~~two~~**2** weeks before the next scheduled conference call.

c. Periodic NRC/State conference calls.

- i. These calls are designed to maintain open communications between the Agreement State and NRC. The calls should involve Agreement State management ~~r~~**(s)** responsible for improving the program and the IMPEP team leader, the RSAO, **the FSME Designee**, and other NRC or State staff, as needed.
- ii. ~~A draft agenda, coordinated with Agreement State management and NRC staff, should be prepared by the RSAO and distributed at least one week prior to the call.~~
- iii. ~~The periodic calls normally occur bimonthly unless, otherwise directed by the MRB.~~
- iv. ~~As elements of the program improvement plan are completed by the~~

~~Agreement State, the accomplishments should be noted in the conference call summaries and need not be included in future State progress reports.~~

2. Monitoring

- a. Under monitoring, a State does not need to prepare or submit a ~~Program Improvement Plan~~ or written periodic progress reports.
- b. Periodic NRC/State conference calls.
 - i. These calls are designed to maintain open communications between the Agreement State and NRC. The calls should involve Agreement State management ~~center(s)~~ responsible for improving the program and the RSAO, the ~~ASPO~~ **FSME Designee**, and other NRC ~~or State~~ staff, as ~~appropriate~~ **necessary**.
 - ii. ~~A draft agenda, coordinated with Agreement State management and NRC staff, should be prepared by the RSAO and distributed at least one week prior to the call.~~
 - iii. ~~The periodic calls will occur at a frequency agreed upon by the MRB and the State.~~

3. Followup review by an IMPEP team.

- a. The MRB will normally determine if, and when, a followup IMPEP review should be performed to evaluate State progress in resolving weaknesses. (See ~~STP~~ **FSME** Procedure SA-119 for additional information on followup reviews.)
- b. The results of a follow-up IMPEP review may be the basis for the MRB's decision to continue or cease the heightened oversight process.
 - i. If the MRB finds the Agreement State program is satisfactory for all performance indicators, the MRB should consider discontinuation of the heightened oversight process.
 - ii. If the MRB finds the Agreement State program is improving and resolving the recommendations from the last IMPEP review but is satisfactory, but needs improvement, in one or more performance indicators, the MRB should consider taking the State off of heightened oversight and placing the State on monitoring.
 - iii. If the MRB finds the Agreement State program is not improving or resolving the recommendations from the last IMPEP review and is unsatisfactory for one or more performance indicators, the MRB may elect to continue the heightened oversight process or may direct ~~STP~~ **FSME** to prepare a

Commission paper requesting approval for an appropriate next action.

D. Additional Actions for Programs Placed on Heightened Oversight or Monitoring

1. Letter Transmitting Final IMPEP Report.

If the ~~root~~**underlying** cause of program weaknesses identified during the IMPEP review is determined to be fiscal concerns, the MRB may direct ~~that~~**staff to include** additional language ~~be inserted~~ into the cover letter for the final IMPEP report to bring these issues to the attention of Agreement State senior management. Fiscal concerns include budget, staffing, and resource concerns ~~and shortfalls~~. Communication with Agreement State senior management may facilitate necessary actions to address the fiscal concerns affecting the Agreement State radiation control program.

2. If the MRB decides to place a State on heightened oversight or monitoring (or continue the State program on heightened oversight or monitoring), the MRB may consider the issuance of a letter from the Chairman or the Executive Director of Operations (EDO) to the State Governor to communicate NRC's concerns about the program. In this cases, ~~E~~**executive-** and ~~L~~**legislative-** level knowledge of performance issues faced by a program may bring attention to necessary action and additional resources ~~made available~~**needed** to address performance ~~problems~~**weaknesses**. Additionally, the letter could assist in helping the Governor better understand the importance of the Agreement between NRC and the State, the status and value of the State's radiation safety program, and help in maintaining internal State focus on the need to provide adequate funding for the Program. A letter addressed to the Governor would usually be signed by the Chairman, and be provided to the Commission for review and approval. A sample letter to the State Governor is provided in Appendix ~~F~~**C**.

3. Alternatively, at the State's request, the letter could be sent to senior State management in the program instead of the State Governor. Depending on the ~~level~~**seniority** of ~~Senior State Management~~**the addressee**, the letter would be signed by ~~either by the EDO, Deputy Executive Director for Materials, Research and State Programs, or Director, STP~~**appropriate level of NRC management**. The State Liaison Officer and ~~the Regional State Agreements Officer~~ will be provided a copy of the letter.

4. NRC/State management meetings.

~~The~~ NRC may offer to meet with Agreement State officials to discuss State actions to improve the radiation control program.

5. NRC technical assistance.

NRC and the Agreement States may discuss NRC technical assistance in

accordance to guidance in MD 5.7, *Technical Assistance to Agreement States*.

VI. APPENDIXES

- Appendix A - ~~Sample Letter Transmitting Final IMPEP Report to States on Heightened Oversight Status~~
- Appendix B - ~~Sample Letter Transmitting Final IMPEP Report to States on Monitoring Status~~
- Appendix C.1 - ~~Sample Heightened Oversight Conference Call Agenda~~
- Appendix C.2 - ~~Sample Monitoring Conference Call Agenda~~
- Appendix D.1 - ~~Sample Heightened Oversight or Monitoring Conference Call Summary~~
- Appendix D.2 - ~~Sample Monitoring Conference Call Summary~~
- Appendix ~~E~~B - Sample Program Improvement Plan
- Appendix ~~F~~C - Sample Letter from NRC's Chairman to State Governor Informing that the State Governor Informing that the State has been Placed on Heightened Oversight or Monitoring Status

VII. REFERENCES

1. NRC Management Directive 5.6, *Integrated Materials Performance Evaluation Program*.
2. NRC Management Directive 5.7, *Technical Assistance to Agreement States*.
3. ~~STP Procedure SA-100, *Implementation of the Integrated Materials Performance Evaluation Program (IMPEP)*~~
4. ~~STPFSME~~ Procedure SA-106, *Management Review Board*
54. STP Procedure SA-112, *Emergency Suspension of a Section 274b Agreement*
65. ~~STPFSME~~ Procedure SA-113, *Placing an Agreement State on Probation*
76. ~~STPFSME~~ Procedure SA-114, *Suspension of a 274b Agreement*
87. ~~STPFSME~~ Procedure SA-115, *Termination of a 274b Agreement*
98. ~~STPFSME~~ Procedure SA-116, *Periodic Meetings with Agreement States Between IMPEP Reviews*
109. ~~STPFSME~~ Procedure SA-119, *Follow-up IMPEP Reviews*

VIII. ADAMS REFERENCE DOCUMENTS

For knowledge management purposes, all previous revisions of this procedure, as well as associated correspondence with stakeholders, that have been entered into ADAMS are listed below.

No.	Date	Document Title/Description	Accession Number
1	2/13/04	STP Procedure SA-122	ML040620458
2	7/28/05	STP-05-061, Opportunity to Comment on Draft Revision to STP Procedure SA-122	ML052100400
3	10/5/05	STP-05-076, Final STP Procedure SA-122	ML052790422
4	10/5/05	STP Procedure SA-122	ML061730034
5	10/5/05	STP Procedure SA-122 (redline/strikeout)	ML061730038
6	10/5/05	Summary of Comments on SA-122	ML061730043

Appendix A

~~Sample Letter Transmitting Final IMPEP Report to States on Heightened Oversight Status~~

~~[NAME]
[TITLE, STATE SENIOR MANAGEMENT]
[ADDRESS]~~

~~Dear [NAME]:~~

~~On [DATE], the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the [STATE] Agreement State program. The IMPEP review was conducted [DATE]. The MRB had received for consideration the comments in [NAME]'s letter dated [DATE]. The MRB found the [STATE] program adequate but needs improvement, and [NOT] compatible with NRC's program. Because of the significance of the concerns, the MRB recommends heightened oversight of the [STATE] program.~~

~~[IF DIRECTED BY THE MRB, INSERT PARAGRAPH DETAILING FISCAL ISSUES IDENTIFIED AS ROOT CAUSES OF PROGRAM WEAKNESSES. FISCAL ISSUES INCLUDE BUDGET, STAFFING AND RESOURCE SHORTFALLS OR CONCERNS.]~~

~~I request that bimonthly conference calls take place with the appropriate [STATE] and NRC staffs to discuss the status of the program. The Regional State Agreement Officer will coordinate the bimonthly conference calls. I request that, two weeks prior to the calls, you submit a brief status report on the activities conducted since the last report.~~

~~I also request that you prepare and submit a program improvement plan that addresses the recommendations in Section 5 of the enclosed final report. I request that the plan be submitted within 30 days of receipt of this letter. Upon review, the staff will provide comments, on the plan, will schedule the first conference call and will provide a more detailed outline for the status reports. I request the initial conference call be scheduled and conducted no later than [DATE].~~

~~Based on the results of the current IMPEP review, a follow-up review will be scheduled during the period [TIMEFRAME]. The follow-up review will cover the State's action on the recommendations from the [DATE] review.~~

I appreciate the courtesy and cooperation extended to the IMPEP team during the review and your continuing support of the ~~[NAME OF AGREEMENT STATE ORGANIZATIONAL UNIT]~~. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

~~[NAME]
Deputy Executive Director for Materials,
Research and State Programs~~

Enclosure:
As stated

cc: ~~[STATE LIAISON OFFICER]
[RADIATION CONTROL PROGRAM DIRECTOR]
[REGIONAL STATE AGREEMENTS OFFICER]
[OTHER]~~

Appendix B

Sample Letter Transmitting Final IMPEP Report to States on Monitoring Status

[NAME]
[TITLE, STATE SENIOR MANAGEMENT]
[ADDRESS]

Dear [NAME]:

On [DATE], the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the [STATE] Agreement State Program. The IMPEP review was conducted [DATE]. The MRB found the [STATE] program [adequate but needs improvement, and [NOT] compatible with NRC's program]. [The MRB had received for consideration the comments in [NAME]'s letter dated [DATE] in response to the recommendations in section 5.0 of the enclosed final report / We request your response to the recommendations in section 5.0 of the enclosed final report within 30 days of your receipt of this letter].

Because of the significance of the concerns, the MRB recommends monitoring of the [STATE] program. [INSERT PARAGRAPH SUMMARIZING PROGRAM ISSUES AND/OR MRB'S REASONS FOR PLACING THE STATE ON MONITORING.]

I request that quarterly conference calls take place with the appropriate [STATE] and NRC staffs to discuss the status of the program. The Regional State Agreements Officer (RSAO) will coordinate the quarterly conference calls. I request that, two weeks prior to the calls, you submit a brief status report on the activities conducted since the last report. I request the initial conference call be scheduled and conducted no later than [DATE].

Based on the results of the current IMPEP review, a follow-up review will be scheduled during the period of [TIME FRAME]. The follow-up review will cover the State's action on the recommendations from the [DATE] final IMPEP report.

I appreciate the courtesy and cooperation extended to the IMPEP team during the review and your continuing support of the [NAME OF AGREEMENT STATE ORGANIZATIONAL UNIT]. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

[NAME]
Deputy Executive Director
for Materials, Research and State Programs
Office of the Executive Director for Operations

cc: [STATE LIAISON OFFICER]
[RADIATION CONTROL PROGRAM DIRECTOR]
[OTHER]

~~Appendix C.1~~

~~Sample Heightened Oversight Conference Call Agenda~~

~~Date: [DATE]~~

~~Time: [TIME]~~

~~Non-NRC Participant Telephone Number:~~

~~Dial [PHONE NUMBER]; enter Access Code [NUMBER]~~

~~NRC Participant Telephone Number:~~

~~Dial [PHONE NUMBER]; enter Access Code [NUMBER]~~

~~Discussion Items~~

~~1. Status of Actions in [DATE] letter~~

~~—a. [LIST ACTIONS TO BE DISCUSSED, SUCH AS PERFORMANCE INDICATORS IDENTIFIED WITH PROBLEMS FROM THE IMPEP REVIEW]~~

~~—b.~~

~~—c.~~

~~2. Discussion of Changes to Items or Dates for Completion~~

~~3. Potential Timeframe for Follow-Up Review~~

~~4. Date for Next Conference call (Date and Time)~~

~~Attached are the minutes from the [DATE – PREVIOUS CALL] conference call and [STATE'S] [DATE] status letter. STATE previously submitted status letters in [LIST DATES] addressing recommendations in the IMPEP report and the necessary actions in the heightened oversight program.~~

~~If you have any questions, please call me at [PHONE NUMBER]~~

~~[REGIONAL STATE AGREEMENTS OFFICER]~~

Appendix C.2

Sample Monitoring Conference Call Agenda

Date: [DATE]

Time: [TIME]

Non-NRC Participant Telephone Number:

Dial [PHONE NUMBER]; enter Access Code [NUMBER]

NRC Participant Telephone Number:

Dial [PHONE NUMBER]; enter Access Code [NUMBER]

Discussion Items

1. Discussion of Performance Indicators

a. [LIST PERFORMANCE INDICATORS IDENTIFIED WITH PROBLEMS FROM THE IMPEP REVIEW]

b.

c.

2. Status of Open Recommendations

3. Date for next Conference Call (Date and Time)

Attached are the minutes from the [DATE - PREVIOUS CALL] conference call.

If you have any questions, please call me at [PHONE NUMBER]

[REGIONAL STATE AGREEMENTS OFFICER]

Appendix D.1

Sample Heightened Oversight or Monitoring Conference Call Summary

[STATE]: [DATE]

The minutes are presented in the same general order as the items were discussed in the meeting. The participants were as follows:

[TEAM LEADER]
[STP MANAGER]
[LIST STATE PARTICIPANTS]

[RSAO]
[REGIONAL MANAGER]
[ASPO] **FSME DESIGNEE**
[LIST OTHER NRC PARTICIPANTS]

1. ~~Status of Actions in [DATE] Letter~~ **Discussion of Status of Open Recommendations.**

[LIST ACTIONS] [SUMMARIZE STATE'S ACTION TO DATE. DOCUMENT DISCUSSIONS WITH STATE REGARDING EACH ACTION]

[LIST ACTIONS] [SUMMARIZE STATE'S ACTION TO DATE. DOCUMENT DISCUSSIONS WITH STATE REGARDING EACH ACTION]

[LIST ACTIONS] [SUMMARIZE STATE'S ACTION TO DATE. DOCUMENT DISCUSSIONS WITH STATE REGARDING EACH ACTION]

2. ~~Discussion of Changes to Items or Dates for Completion~~ **Current Status of Program.**

[SUMMARIZE DISCUSSION]

3. ~~Future Status Reports.~~ [STATE] will submit a status report prior to the [DATE] conference call.

4. ~~Date for Next Conference Call (date and time).~~ The next call was set up for [DAY], [DATE] at [TIME].

5. **Additional Topics.** [DOCUMENT ADDITIONAL DISCUSSIONS AS NEEDED]

5. **Staff's Conclusions**

~~Appendix D.2~~

~~Sample Monitoring Conference Call Summary~~

~~[STATE]: [DATE]~~

~~The minutes are presented in the same general order as the items were discussed in the meeting. The participants were as follows:~~

~~[RSAO] _____ [ASPO]
[LIST STATE PARTICIPANTS] _____ [LIST OTHER NRC PARTICIPANTS]~~

~~1. Discussion of Performance Indicators~~

~~[LIST INDICATOR] [SUMMARIZE STATE'S STATUS TO DATE. DOCUMENT DISCUSSIONS WITH STATE REGARDING EACH INDICATOR]~~

~~[LIST INDICATOR] [SUMMARIZE STATE'S STATUS TO DATE. DOCUMENT DISCUSSIONS WITH STATE REGARDING EACH INDICATOR]~~

~~[LIST INDICATOR] [SUMMARIZE STATE'S STATUS TO DATE. DOCUMENT DISCUSSIONS WITH STATE REGARDING EACH INDICATOR]~~

~~2. Status of Open Recommendations.~~

~~[SUMMARIZE DISCUSSION]~~

~~3. Date for Next Conference Call (date and time). The next call was set up for [DAY], [DATE] at [TIME].~~

~~4. Additional Topics. [DOCUMENT ADDITIONAL DISCUSSIONS AS NEEDED]~~

Appendix EB

Sample Program Improvement Plan

Note: This plan should include root causes for weaknesses and include short- and long-term corrective actions. The sample recommendations in this Appendix were identified by the Agreement State program management as root causes of the program weaknesses based on the IMPEP review. The tasks and milestones identified in the table are the short- and long-term corrective actions proposed by the Agreement State program management.

Recommendation	Tasks	Milestones	Assignments	Anticipated Completed Date	Status	Completion Date
Good performance licensee inspection extension	Develop written policy on good performance procedures	Written policy developed	Insert staff name	12/10/01	Completed	12/10/01
		Written policy reviewed	Insert manager name	12/31/01	Completed	12/31/01
		Written policy implemented	Insert staff name	1/15/02	Completed	12/31/01
		Record of adjustment made to licensee files	Insert staff name	2/28/02	Completed	5/6/02
Management measures to insure timely inspections	1. Review overdue inspection list monthly	Prioritize and assign inspections to staff	Insert manager name	12/10/01	Completed	12/08/01
		University A - Broad Licensee inspection	Insert staff name	12/31/01	Completed	12/19/01
		University B - Broad Licensee inspection	Insert staff name	12/31/01	Completed	1/25/02
		Radiographer A inspection	Insert staff name	1/31/02	Completed	2/6/02
		Irradiator Facility A inspection	Insert staff name	4/30/02	Completed	4/16/02
		Medical Broad Licensee inspection	Insert staff name	4/30/02	Completed	4/25/02
	2. Review staffing options	Create health physicist series - 5 step process	Insert manager(s) names	12/18/01	Completed (approved by legislation)	5/24/02
		Review current State Agreement Program organization structure	Insert manager(s) names	6/30/02	In process	
		Review operational processes for efficiency	Insert manager(s) names	8/31/02	In process	
		Consider contracting with private sector	Review options (Insert manager(s) names)	1/31/02	Completed	2/15/02
			Review pros & cons (Insert manager(s) names)	2/15/02	Completed	2/15/02
			Decision to proceed (Radiation Control Program Director)	2/28/02	Completed	2/28/01

Recommendation	Tasks	Milestones	Assignments	Anticipated Completed Date	Status	Completion Date
			Contract approved to hire consultant	4/18/02	Completed	4/18/02
		Consider contracts with past State employees/feds/other States	Draft letter seeking interest of past employees (Insert manager(s) names)			
			Review options (Insert manager(s) names)			
			Review pros & cons (Insert manager(s) names)			
			Response & decision to proceed			
			Draft contract (Insert manager(s) names)			
			Contract submitted to Administration for approval			
	3. Assure better communication regarding expectation of staff deliverables	Review Radiation Control Programs goals and objectives with each staff person	Finalize & send to each staff HP (Insert manager(s) names)	1/31/02 then Quarterly		
		Review status of radioactive materials program goals and objectives and revise if necessary	(Insert manager(s) names)	Quarterly		
	4. Investigate additional funding options	Revise Fees	Secure fee schedules from other States (Insert staff name)			
			Make decision on increases to fees (Insert manager(s) names)			
			Secure Technical assistance support in reviewing fees (Insert manager(s) names)			
			Draft Rules (Insert staff names)			
Initiate Rulemaking (Insert staff names)						
Final Rule						

Recommendation	Tasks	Milestones	Assignments	Anticipated Completed Date	Status	Completion Date
			Implementation of new fees (Insert staff names)			
		Redirect Radiation Control Program funds	Draft legislation (Insert manager(s) names)			
	Introduce Legislation (Insert manager(s) names)					
	Approval by Legislation					
Staff training plan development	1. Develop Radiation Control Program tracking sheets	Prepare chart indicating past and needed training of each health physicist (HP)	(Insert manager name)			
	2. Seek/apply for necessary training	Apply for future courses, complete necessary in-house travel forms	(Insert manager(s) and staff names)			
	3. Develop criteria for HP series progression	Review criteria developed by other States	(Insert manager(s) names)			
	4. Define criteria for progression up ladder	Draft and decide on criteria	(Insert manager(s) names)			
Address staff turnover	Review enhancement possibilities	Introduce HP series	Explore other States' HP series job description (Insert manager(s) names)			
			Draft necessary job description			
			Write justification for review			
			Review, revise, and submit (Insert manager(s) names)			
		Introduce a workforce development plan	(Insert manager(s) names)			
Examine and change business processes and organization of the Radiation Control Program to improve the effectiveness and	1. Work with the advisory committee in pursuing recommendations for improvements as noted in rad material survey	Review options with advisory committee. Proceed as directed				

Recommendation	Tasks	Milestones	Assignments	Anticipated Completed Date	Status	Completion Date
efficiency of the program	2. Track with the NRC bi-monthly regarding status of this "Improvement Plan"	Schedule telephone conference with NRC				
		Prepare Program Improvement Plan status report	(Insert manager(s) names)	every 2 months	On going	
Develop and implement an action plan to adopt NRC regulations in accordance with current policy on adequacy and compatibility	Rule Revision	Convert existing rules to Word and proof	(Insert staff names)			
		Review existing rules for changes	(Insert staff names)			
		Determine necessary revisions	(Insert staff names)			
		Draft rules for compatibility	(Insert staff names)			
		Submit rules for public comment	(Insert staff names)			
		Rules issued for 60 days comment period and transmitted to NRC for review	(Insert staff names)			
		Comments resolved and transmitted for final issuance	(Insert staff names)			
		Final regulations sent to NRC for final review	(Insert manager(s) names)			

Appendix FC

Sample Letter from NRC's Chairman to State Governor Informing that the State has Been Placed on Heightened Oversight or Monitoring Status

The Honorable [NAME]
Governor of [STATE]
[ADDRESS]

Dear Governor [LAST NAME]:

On [DATE], the State of [STATE] entered into an Agreement with the U.S. Nuclear Regulatory Commission (NRC). Under this Agreement, the NRC relinquished its authority to regulate certain Atomic Energy Act (Act) materials, pursuant to Section 274 of the Act, and the State of [STATE], as an Agreement State, assumed that authority. Under Section 274j. of the Act, NRC has an oversight responsibility to review Agreement State Programs periodically for adequacy and compatibility with the national program. This review is conducted under NRC's Integrated Materials Performance Evaluation Program (IMPEP).

In accordance with these oversight responsibilities, on [LAST IMPEP REVIEW DATE], the NRC staff conducted an IMPEP review of the [STATE] Agreement State Program that is administered by the [STATE PROGRAM ADMINISTERING AGREEMENT STATE PROGRAM].

On [DATE], the NRC's Management Review Board (MRB) met to consider the proposed IMPEP report on the [STATE] Agreement State Program. The MRB found the [STATE] program [FINDING]. Because of the significance of the findings, the MRB determined that the [STATE] program should undergo a period of heightened oversight. Heightened oversight is an increased monitoring process used by NRC to follow the progress of improvement needed in an Agreement State Program.

The IMPEP review noted that the underlying root causes of the identified weaknesses are [~~ROOT~~UNDERLYING CAUSES]. The Commission appreciates the commitment senior [STATE AGENCY] management expressed during the MRB meeting and their efforts to address the identified weaknesses in order to operate an adequate and compatible program.

I want to assure you that the Commission supports the objectives of the [STATE] Agreement State Program. The NRC will continue to work closely with [STATE RADIATION CONTROL PROGRAM/STATE AGENCY]. Your continued support for the program will help ensure that the necessary resources to achieve a fully satisfactory program are available. I would be pleased to discuss this matter with you or your staff in further detail if you desire.

Sincerely,

[CHAIRMAN]