



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

July 6, 2016

ALL AGREEMENT STATES, VERMONT, WYOMING  
STATE LIAISON OFFICERS

OPPORTUNITY TO COMMENT ON DRAFT REVISION TO THE OFFICE OF NUCLEAR  
MATERIAL SAFETY AND SAFEGUARDS PROCEDURE SA-801, *AGREEMENT STATE  
PARTICIPATION IN WORKING GROUPS* (STC-16-051)

**Purpose:** To provide the Agreement States, Vermont, Wyoming, and State Liaison Officers an opportunity to comment on Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-801, *Agreement State Participation in Working Groups* (ML16147A097).

**Background:** This is a new procedure developed from the handbook which used to be part of the U.S. Nuclear Regulatory Commission (NRC) Management Directive 5.3, *Agreement State Participation in Working Groups*.

**Discussion:** Enclosed for your review and comment is a new procedure NMSS Procedure SA-801, *Agreement State Participation in Working Groups*. An NRC office (Headquarters or regional) or the Organization of Agreement States (OAS) Executive Board may recommend the establishment of an NRC/Agreement State working group to address a wide range of issues and to develop a variety of different products. Working groups provide a means for NRC and Agreement State staff to work cooperatively in the development of a rule, policy, directive, or guidance document; or to participate in a special study. These working groups enhance the partnership between the NRC and the Agreement States, facilitate the utilization of the centers of expertise that exist in the NRC regions and the Agreement States, and support the National Materials Program. Other Federal agency representatives may also participate as necessary, depending on the purpose and scope of the working group. All requests for Agreement State participation on working groups will be coordinated by NMSS.

Please provide any comments on SA-801. We would appreciate receiving your comments<sup>1</sup> within 30 days from the date of this letter.

If you have any questions regarding this correspondence, please contact me at (301) 415-3340 or the individual named below:

POINT OF CONTACT: Joe O'Hara  
TELEPHONE: (301) 415-6854

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Daniel S. Collins, Director  
Division of Material Safety, State, Tribal  
and Rulemaking Programs  
Office of Nuclear Material Safety  
and Safeguards

Enclosure:  
Draft NMSS SA-801, *Agreement*  
*State Participation in Working Groups*  
(ML16147A097)

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<sup>1</sup>This information request has been approved by OMB 3150-0029 (expiration 1/31/2019) and 3150-0200 (expiration 10/31/2018). The estimated burden per response to comply with this voluntary collection is approximately 60 minutes per response. Send comments regarding the burden estimate to the FOIA, Privacy, and Information Collections Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to [infocollects.resource@nrc.gov](mailto:infocollects.resource@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.



## Office of Nuclear Materials Safety and Safeguards Procedure Approval

### *Agreement State Participation in NRC Working Groups*

**SA-801**

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Issue Date:

Review Date:

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Daniel S. Collins, Director  
*Division of Material Safety, State, Tribal  
and Rulemaking Programs*

*Date:*

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Paul Michalak, Acting Branch Chief  
*Agreement State Program Branch  
Division of Material Safety, State, Tribal  
and Rulemaking Programs*

*Date:*

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Joe O'Hara, *Procedure Contact*  
*Agreement State Program Branch  
Division of Material Safety, State, Tribal  
and Rulemaking Programs*

*Date:*

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**ML16147A097**

**NOTE**

***Any changes to the procedure will be the responsibility of the NMSS Procedure Contact.  
Copies of NMSS procedures are available through the NRC Web site at  
<https://scp.nrc.gov>***



**Procedure Title:**  
***Agreement State Participation in Working  
Groups***  
**Procedure Number: SA-801**

**Page: 1 of 17**  
**Issue Date:**  
**XX/XX/2016**

## **I. INTRODUCTION**

A U.S. Nuclear Regulatory Commission (NRC) office (Headquarters or regional) or the Organization of Agreement States (OAS) Executive Board may recommend the establishment of an NRC/Agreement State working group to address a wide range of issues and to develop a variety of different products. Working groups provide a means for NRC and Agreement State staff to work cooperatively in the development of a rule, policy, directive, or guidance document; or to participate in a special study. These working groups enhance the partnership between the NRC and the Agreement States, facilitate the utilization of the centers of expertise that exist in the NRC regions and the Agreement States, and support the National Materials Program. Other Federal agency representatives may also participate as necessary, depending on the purpose and scope of the working group. All requests for Agreement State participation on working groups will be coordinated by the Office of Nuclear Material Safety and Safeguards (NMSS), Division of Material Safety, State, Tribal and Rulemaking Programs (MSTR).

## **II. OBJECTIVES**

- A. This procedure implements the agency's requirements for Management Directive (MD) 5.3 *Agreement State Participation in Working Groups*.
- B. This procedure describes the steps to establish and implement NRC/Agreement State or rulemaking working groups.
- C. This procedure develops a process through which every working group member:
  - 1. Contributes to the development and implementation of a working group charter.
  - 2. Aligns with the vision, purpose, and goals; as stated in the working group charter.
  - 3. Applies initiative and creativity to each task.
  - 4. Commits to the highest standards for quality and effective problem solving.
  - 5. Actively seeks improvements to processes and standards.

### **III. BACKGROUND**

#### **A. Types of Working Groups**

##### **1. NRC/Agreement State working group**

NRC/Agreement State working groups are chartered and co-chaired by NRC and Agreement State staff members. These working groups result in centers of expertise, jointly leveraging NRC and Agreement State resources. NRC/Agreement State working groups develop recommendations concerning draft policy, directives, or guidance documents and perform special studies.

##### **2. Rulemaking working group**

Rulemaking working groups may or may not include an Agreement State staff member. Rulemaking working groups are used specifically to make recommendations to develop or revise NRC regulations and associated guidance.

#### **B. General Operating Standards**

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

1. Attending working group meetings;
2. Coming to meetings prepared to discuss issues;
3. Providing input on time;
4. Staying focused on the task(s);
5. Clearly stating the positions and concerns of the member's organization;
6. Providing feedback to member's organization/management to facilitate completion of final products; and
7. Working as a team and properly balancing differing views in accordance with NRC's policies on open collaborative work environment, and safety culture and climate.

### **IV. ROLES AND RESPONSIBILITIES**

#### **A. NMSS/MSTR Director**

1. Approves the establishment of all NRC/Agreement State working groups, rulemaking working groups and steering committees to help ensure appropriate coordination with Agreement States.

2. Establishes expectations for communication strategies for (1) seeking input from stakeholders, when appropriate, and (2) providing status updates and results to the steering committee and the OAS Executive Board.
3. Appoints NRC/Agreement State Working Group Coordinator.

**B. Lead Organization**

1. Recommends and usually assumes responsibility for the establishment of working groups for issues that would directly affect an Agreement State.
2. Establishes a draft charter for the working group that preserves the essential elements of the request for participation, and addresses the purpose, membership, objectives, operating rules, and schedule of the working group.
3. Approves on all charters of NRC/Agreement State working groups, rulemaking working groups, and steering committees to help ensure efficiency and effectiveness in the groups/committee's and ensures effective purpose, function, and product.
4. Ensures that the resources needed to accomplish the task are provided to the working group, and tracks progress.
5. Can be an NMSS division or an OAS group.

**C. OAS Executive Board**

1. Recommends the establishment of NRC/Agreement State working groups and steering committees.
2. Consults with NMSS and/or any other lead organization on Agreement State involvement in rulemaking working groups.
3. Determines Agreement State representatives on working groups.
4. The OAS chair approves on all charters of NRC working groups and, as applicable, rulemaking working groups and steering committees.

**D. Working Group Chair, Co-Chair(s), or Task Leader**

Depending on the task of the working group there may be a chair (rulemaking working group), co-chair(s) (NRC/Agreement State working groups), or a task leader (NMSS rulemaking working group).

1. Coordinates establishment of the working group.
2. Leads working group meetings including but not limited to establishing meeting schedules and agenda.
3. Finalizes working group charter during first working group meeting.
4. Ensures the preparation of meeting minutes and other support activities, as appropriate.
5. The NRC chair, co-chair, or task leader ensures that appropriate documents are made available in the NRC's Agencywide Documents Access and Management System (ADAMS) and the Public Document Room.
6. Ensures that the working group follows the charter, regulatory basis, and rulemaking plan, including the completion of all tasks within the agreed-upon timeframe.
7. Ensures that the lead organization and the steering committee (if applicable) are kept informed of working group activities.
8. Ensures that issues and areas needing policy guidance or direction are brought to the lead organization or steering committee (if applicable) for discussion and resolution. If the working group has no steering committee and needs guidance, the chair, co-chair(s), or task leader will bring the issue(s) to the attention of office management, the OAS Executive Board, and the Office of the General Counsel (OGC), as applicable.
9. Issues the final working group product or products.

E. NRC/Agreement State Working Group Coordinator

1. Ensures the working group members understand the process and objectives.
2. Facilitates the development of the working group charter and posts it on the external Web site.
3. Provides advice to lead organization regarding implementation of this procedure.
4. Maintains a master list of NRC/Agreement State working groups which is updated and distributed as needed (e.g. when new working groups are established or current working groups complete their objectives). The list should also be posted on the external Web site.

**F. NRC/Agreement State Working Group Member**

1. Works with the working group co-chair(s) or task leader to assess the tasks and milestones needed to:
  - a. Complete draft working group products;
  - b. Review and comment on drafts;
  - c. Address comments; and
  - d. Prepares any briefing materials.
2. Reviews contractor reports, as appropriate.
3. Completes working group tasks and products, on time.
4. Facilitates the concurrence process by assisting in resolving any significant issues or concerns.
5. Supports and participates in management briefings and any public meetings.
6. Informs chair, co-chair(s), or task leader of any conflicting priorities and problems relative to completing tasks and products.
7. Ensures that their management's opinions and views are understood and presented to the working group.
8. The Agreement State member(s) of NRC/Agreement State working groups and rulemaking working groups will keep the OAS Executive Board apprised of the working group's activities and solicits comments and input on working group issues. Notifies the Working Group Chairman and OAS Executive Board of potential issues or concerns. Obtains views from other Agreement States, if possible.

**G. Steering Committee**

1. For the associated working group, reviews, and comments on (as needed), and agrees to the working group charter.
2. Provides guidance and direction to the working group.
3. Provides feedback on working group products.
4. Keeps applicable office or division senior management informed of issues, schedules, and the working group's activities, as necessary.

5. The Agreement State member(s) of the steering committee groups will keep the OAS Executive Board apprised of activities and notify the OAS Executive Board of potential issues or concerns.

#### H. Rulemaking Working Group Member(s)

1. These working groups may or may not include an Agreement State staff member. If the rulemaking working group will provide a compatibility recommendation, the working group should include an Agreement State representative.
2. Works with the task leader to assess the tasks and milestones needed to:
  - a. Prepare the rule package;
  - b. Prepare the rule documents;
  - c. Review and comment on drafts;
  - d. Address comments;
  - e. Estimate information collection burden;
  - f. Prepare briefing materials; and
  - g. Complete the rulemaking package on time.
3. Reviews contractor reports, as appropriate.
4. Prepares associated guidance (including licensing, inspection, and enforcement guidance), as appropriate, and helps develop milestones for its preparation so that final guidance will be available at the time the rule is implemented.
5. Facilitates the rulemaking concurrence process by assisting with resolving any significant issues or concerns.
6. Attends and participates in working group meetings, including being appropriately prepared.
7. Supports and participates in management briefings and any public meetings.
8. Informs chair, co-chair(s), or task leader of conflicting priorities or problems relative to completion of tasks and products.
9. Ensures that their management's or organization's opinions and views are understood and presented to the working group.

10. Agreement State rulemaking working group member(s), keeps the OAS Executive Board apprised of the rulemaking working group's activities, and solicits comments and input on working group issues. Notifies the Working Group Chairman and OAS Executive Board of any potential issues or concerns. Obtains views from other Agreement States, if possible.

## **V. GUIDANCE**

### **A. NRC/Agreement State Working Groups**

#### **1. General**

- a. Most working groups fall under the category of NRC/Agreement State working groups. These groups are used to make recommendations to develop or draft revisions of policies, procedures, and guidance documents, as well as to perform special studies.
- b. A checklist is provided in Exhibit 1 to facilitate staff adherence to this procedure.
- c. The lead organization should contact the NRC/Agreement State working group coordinator or the Chief, Agreement States Program Branch, NMSS, to discuss any questions on establishing or implementing a working group.

#### **2. Lead Organization**

The lead organization recommending establishment of an NRC/Agreement State working group will usually assume lead responsibility for the working group. This lead responsibility includes establishing the purpose of the working group, requesting participation, drafting and finalizing a charter in coordination with OAS, identifying members, and tracking progress.

#### **3. Request for Members**

- a. The lead organization should submit a request for working group members to NMSS/MSTR.
- b. The lead organization will contact NMSS/MSTR to discuss Agreement State involvement. The lead organization should provide the purpose, scope of activities, expected product or outcome of the working group, and the estimated level of effort expected of members to NMSS/MSTR for its use in seeking Agreement State representation. Exhibit 2 is a sample request for members. Each area is discussed further below.

- c. The request for an Agreement State representative should include the following information:
- (i) **Purpose**  
Describe the specific purpose for creating the working group, including any supporting background information. Any restrictions or limitations to be placed on the working group should also be detailed.
  - (ii) **Suggested Membership**  
Describe the suggested membership of the working group, including the number of members desired from each organization and the desired expertise and skills of potential members. Note that there may be more than one Agreement State representative depending on the complexity of the issues involved.
  - (iii) **Level of Effort Expected of Working Group Members**  
To the extent possible, the working group co-chair or task leader should develop a project plan with the following information:
    - a. The level of commitment expected of working group members;
    - b. The anticipated schedule of working group meetings;
    - c. The anticipated workload;
    - d. The anticipated number of trips, if any; and
    - e. The schedule for completion of tasks, products and/or deliverables.
  - (iv) **Scope of Activities and Expected Product**  
Describe the scope of the activities, the proposed schedule with completion date, and the expected product of the working group.
  - (v) **Steering Committee**  
Identify whether a steering committee will be established to support the working group and if an Agreement State representative is needed for the steering committee.
- d. After submitting a request for members, the lead organization should place any new working group(s) on the agenda for discussion during the next monthly NRC/OAS/Conference of Radiation Control Program Directors teleconference to ensure a common understanding of the purpose, scope, and proposed membership of the new working group.

#### 4. Identification of Working Group Members

- a. Each organization should identify working group members to the lead organization within 30 days of the formal request. The lead organization may suggest specific members for participation in the working group; however, working group membership is ultimately the decision of respective program management. A minimum of 30 days should be given to the OAS Executive Board to identify State members.
- b. The NRC will select the NRC working group co-chair, and the OAS Executive Board will select the OAS co-chair. Responsibilities of the chair are listed in Section IV.D.
- c. In some cases, additional members from outside the Federal or State government may be requested to be part of a working group. However, if all working group members are not Federal, State, local, or Tribal Government employees acting in their official capacity, the group may be considered to be an advisory committee subject to the procedural requirements of the Federal Advisory Committee Act (FACA). OAS participation on an NRC working group does not have FACA implications. If all working group members are not permanent Government employees, the Office of the Assistant General Counsel for Legal Counsel, Legislation, and Special Projects of OGC should be consulted before any meeting of the working group takes place to inquire about the applicability of FACA and what actions need to be taken to meet FACA requirements.

#### 5. The Working Group Charter

##### a. Drafting and Approval

Before the working group convenes, the lead organization should draft a charter for the working group and provide working group members and steering committee members an opportunity to review and comment on the draft charter. The charter should preserve the essential elements of the request for membership. All NRC/Agreement State working groups must have a charter. The charter should be finalized within 30 days of the first working group meeting. The lead organization and the OAS chair approve the final charter.

**b. Charter Contents**

The charter should contain the information below (see Exhibit 3). Recent working group charters can be found on the State Communication Portal at <https://scp.nrc.gov>.

**(i) Purpose**

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

**(ii) Membership**

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

**(iii) Objectives**

Clearly outline the tasks, products, outcomes, and deliverables to be completed by the working group.

**(iv) Schedule**

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

**(v) Operating Rules of the Working Group**

All charters should clearly identify if the working group operates as an NRC/Agreement State working group as described in Section IV of this procedure.

**(vi) Changes to the Working Group Charter**

Any changes to the charter will go through the approval process and the original charter will be followed unless a revision is agreed upon by all concurring organizations.

**6. Management Advisor**

If an NRC/Agreement State working group would benefit from routine management interaction and feedback, the working group, the lead organization, or the steering committee may request the identification and involvement of a management advisor.

A management advisor can provide perspective on issues and working group tasks and can serve as a sounding board for a working group. The advisor should attend working group meetings and provide assistance on working group products, as necessary. The lead organization will work in conjunction with NMSS/MSTR and the OAS Board to choose a suitable representative. A management advisor may be from either the NRC or an Agreement State.

## B. Rulemaking Working Groups

### 1. General

- a. A rulemaking working group may or may not include an Agreement State staff member. Rulemaking working groups are established by an NRC office to address the development or modification of a rule and any associated guidance. If the rulemaking working group will provide a compatibility recommendation, the working group must include an Agreement State representative.
- b. Rulemaking activities include resolving petitions for rulemaking and developing or participating in the development of regulatory bases, rulemaking plans, advance notices of proposed rulemaking, proposed rules, final rules, Paperwork Reduction Act submissions, and regulatory histories, as appropriate. A working group is typically established early in the rulemaking process.
- c. General organizational responsibilities in the rulemaking process are described in MD 6.3, "The Rulemaking Process." Detailed procedures for initiating, conducting, and managing NMSS rulemakings can be found in NMSS Policy and Procedures 6-10, "NMSS Procedures for Preparation and Review of Rulemaking Packages." A checklist is provided in Exhibit 4 to facilitate staff adherence to MD 5.3 when managing rulemaking working groups with Agreement State members.

### 2. Task Leader

An NRC task leader will be chosen to lead a rulemaking working group. Responsibilities for task leaders are listed in Section IV.D of this procedure.

### 3. Agreement State Members

- a. Depending upon the subject matter the working group will be addressing, NMSS/MSTR will decide whether Agreement State representation in the group is necessary or advisable. If the rulemaking working group will provide a compatibility recommendation, the working group must include an Agreement State representative. Agreement State membership on the working group should be

strongly considered if the subject matter addressed by the working group affects Agreement States.

- b. The lead organization should provide the purpose, scope of activities, expected product or outcome of the working group, and the estimated level of effort expected of members to NMSS/MSTR for its use in seeking Agreement State participation (see Exhibit 5). Each area for the Agreement State participation request is discussed further below:

- (i) Purpose

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

- (ii) Scope of Activities and Expected Product

Describe the scope of the activities; the proposed schedule; and the expected tasks, products, and deliverables of the working group. Include information including what step in the rulemaking process an Agreement State member may be joining the group. It is highly recommended that the Agreement State member be engaged as early as possible in the project.

- (iii) Level of Effort Expected of Members

To the extent possible, the working group task leader should develop a project plan with the following information:

- a. The level of commitment expected of working group members;
    - b. The anticipated schedule of working group meetings;
    - c. The anticipated workload;
    - d. The anticipated number of trips, if any; and
    - e. The schedule for completion of tasks, products, and deliverables.

If Agreement State participation begins at different points in the rulemaking process, the timing and level of participation should be specified.

4. Identification of Working Group Members

- a. Each organization should identify working group members to the lead organization as quickly as possible. Working group membership is ultimately the decision of the office leading the rulemaking effort.

- b. The lead organization should select a task leader. Responsibilities for task leaders are listed in Section IV.D. FACA considerations are discussed in Section V.4.(c).

#### C. Steering Committees for Working Groups

1. For working groups, in some cases, the lead organization may establish a steering committee to aid a working group in accomplishing its objectives (for example, if a working group is addressing a particularly complex policy issue). A steering committee should assist a working group in achieving its goals by providing feedback, insight, and advice on the technical, regulatory, and policy issues being addressed by the working group.
2. If a Steering Committee is established, the selection of the Agreement State member(s) for the Steering Committee and the preparation of a charter should follow the guidance in Section V.A.
3. If a steering committee is not established, the lead organization, NRC managers, and OAS Board members who concurred on the working group charter or their designees will be responsible for providing guidance and support on NRC/Agreement State working group activities.

#### D. Implementation and Administration

##### 1. Announcing and Holding Meetings

The NRC working group co-chair or task leader should announce each meeting as appropriate, including teleconferences in accordance with agency policy.

##### 2. Pre-decisional Information

- a. All rulemaking information should be considered pre-decisional unless otherwise specified. Some working groups may be provided with pre-decisional information that is exempt from public disclosure. Any working group meetings involving discussion or consideration of pre-decisional information (information that NRC would not normally discuss in public meetings) would not be open to the public, nor would draft products containing pre-decisional information be made available to the public through the NRC's ADAMS or another distribution mechanism. The lead organization, along with the working group co-chairs or task leader, should decide when meetings and products will be made available to the public.

- b. If OAS is the lead organization, NMSS/MSTR may be asked to aid the working groups in making these decisions. For further guidance, see MD 3.5 and 67 FR 36920 "Enhancing Public Participation in the NRC Meetings; Policy Statement."

### 3. Meeting Minutes

- a. As appropriate, minutes of the meetings should be developed and consideration should be given to make the minutes publically available.
- b. The minutes and accompanying background documents, with pre-decisional material deleted, will be placed in ADAMS and the Public Document Room (PDR), as appropriate. The title of the document should be unique to the specific meeting and should include the name of the NRC/Agreement State working group and the subject of the meeting. E-mails, telephone calls, and memoranda relating to setting up meetings or arranging working group business or similar administrative activities are not required to be placed in ADAMS and the PDR. Refer to ADAMS Template No. NRC-001, "Meeting-Related Documents for NRC Staff-Level Offices."

### 4. Changes in Membership

If a working group member must be replaced either temporarily or permanently, the member's management and the lead organization should agree upon an appropriate replacement. If additional members are required for a working group, the lead organization should coordinate with the office or organization where the additional member is desired. If an Agreement State member needs to be changed or added, Section V.A. should be followed.

### 5. Final Working Group Products

- a. The working group's final tasks, product(s) and/or deliverables should be concurred upon by all members of the working group.
- b. Final working group products will be placed in ADAMS, as appropriate, and distributed to the OAS chair, the Director of MSTR, and the directors of the appropriate NRC offices. Completed working group products should be properly managed and archived in ADAMS.

## 6. Coordination With NRC Offices

Before issuance of the final products, the lead organization should coordinate with OGC to ensure that there is no conflict with current policies, statutes, or procedures. When the lead organization is OAS, NMSS/MSTR should coordinate with OGC to ensure that there is no conflict with current policies, statutes, or procedures.

## 7. Sunset Review and Sunsetting

- a. Each year during the OAS Executive Board meeting, the OAS Executive Board, in conjunction with NMSS/MSTR, reviews the need for continuing each existing NRC/Agreement State working group. NMSS/MSTR and the OAS Executive Board also review the scope, progress, and membership of the working groups and suggest adjustments as necessary.
- b. A working group should be dissolved upon the issuance of the final working group tasks, products, or deliverable. Normally, additional work, if necessary, would be handled by OAS, NRC, individual Agreement State programs, or through the formation of another working group. When additional work is expected from the working group after the final product has been issued, the lead organization should discuss this need with NRC management and the OAS Executive Board, and the working group charter should be reviewed and revised, as appropriate.

## 8. Travel Considerations for Working Group Members

Travel and per diem expenses for NRC-invited Agreement State working group members may be paid by the NRC. In this event, travel and per diem expenses for an Agreement State member will be coordinated through NMSS/MSTR.

## 9. Timekeeping

- a. NRC staff must charge their time spent on working group activities to the appropriate billing code.
- b. If a State working group member needs documentation of the amount of time spent on working group tasks, the member should discuss his or her needs with the working group chair(s), as well as with the NRC/Agreement State working group coordinator.

**E. Differing Professional Opinion**

If there is any professional judgment that differs from the prevailing staff view on a specific area in a working group task, product or deliverable, a written differing opinion can be submitted with the working group product in accordance with MD 10.159, "The NRC Differing Professional Opinions Program."

**VI. REFERENCES****A. Federal Register notice**

67 FR 36920, "Enhancing Public Participation in NRC Meetings; Policy Statement," May 28, 2002.

**B. Nuclear Regulatory Commission Documents**

1. Commission Paper, COMKC-91-007, "Improving Cooperation with Agreement States," memorandum from Samuel J. Chilk, Secretary, to James M. Taylor, Executive Director for Operations, and Harold R. Denton, Director, Office of Governmental and Public Affairs, April 11, 1991.
2. NMSS State Procedures (formerly also known as FSME State Procedures), available at <https://scp.nrc.gov>.
3. Management Directives:
  - a. 3.5 *Attendance at NRC Staff-Sponsored Meetings.*
  - b. 5.3 *Agreement State Participation in Working Groups*
  - c. 6.3 *The Rulemaking Process.*
  - d. 10.159 *The NRC Differing Professional Opinions Program.*
4. NMSS External Web Site, available at <http://www.nrc.gov/about-nrc/organization/nmssfuncdesc.html>.
5. NMSS Policy and Procedures 6-10, "FSME Procedures for Preparation and Review of Rulemaking Packages," Revision 2.
6. NMSS Public Meeting Schedule Web site, available at <http://meetings.nrc.gov/pmns/mtg>.
7. NRC Public Affairs Web site, available at <http://www.nrc.gov/about-nrc/public-affairs.html>.
8. NUREG-BR/0053, "United States Nuclear Regulatory Commission Regulations Handbook."

9. ADAMS Template No. NRC-001, 'Meeting Related Documents for NRC Staff Level Offices.'

C. United States Code

1. 10 U.S.C. 2.802, "Petition for Rulemaking."
2. Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).
3. Federal Advisory Committee Act, as amended (5 U.S.C. Appendix II).

**EXHIBIT 1: Checklist for Establishing and Operating NRC/Agreement State Working Groups**

<b>TASK</b>	<b>RESPONSIBILITY</b>	<b>TIMEFRAME</b>
Identify task, purpose, tentative schedule, etc.	LO	Pre-kickoff meeting
Verify billing code	NRC/Agreement State working group coordinator	Pre-kickoff meeting
Prepare request for working group members	LO	Pre-kickoff meeting
Send request to MSTR for distribution to OAS for working group (WG) members and, if applicable, steering committee (SC) members	LO	Pre-kickoff meeting
Send request to NRC contacts for WG members and, if applicable, SC members	LO	Pre-kickoff meeting
OAS Board solicits a volunteer and notifies MSTR of individual appointee	OAS Director of Emerging Issues and Technology	Pre-kickoff meeting
Coordinate 5.3 process	NMSS/MSTR	Ongoing
Prepare draft working group charter and, if applicable, SC charters	LO	Pre-kickoff meeting
Identify relevant documents	LO	Pre-kickoff meeting
Identify co-chairs and coordinate	LO	Pre-kickoff meeting
Prepare meeting notices, if applicable	LO	Pre-kickoff meeting
Distribute relevant information to the WG members	LO/Co-chairs	Pre-kickoff meeting and prior to each meeting
Review relevant information	WG/SC	Pre-kickoff meeting and prior to each meeting
Post meeting notices	LO	Pre-kickoff meeting and prior to each meeting
Hold kickoff meeting	Co-chairs	First meeting
Finalize charter	Co-chairs	First meeting
Define ground rules, assign tasks, schedules	Co-chairs	First meeting
Charter approval	Working group members/LO/MSTR / OAS chair	30 days after first meeting
Prepare meeting minutes	Co-chairs	30 days after each meeting
Inform management of relevant Organization of WG activities	Co-chairs and working group members	Ongoing
Hold WG meetings	Co-chairs	As needed

<b>TASK</b>	<b>RESPONSIBILITY</b>	<b>TIMEFRAME</b>
Hold SC meetings	SC and WG chairs	As needed
Prepare progress reports to lead organization, SCs	Co-chairs	Periodically, as defined by WG
Participate in monthly OAS/CRCPD conference calls	Co-chairs	As needed
Coordinate with OGC	Co-chairs	As needed
Place relevant documents in ADAMS	NRC Co-chair	30 days after each meeting
Prepare preliminary draft WG report	Co-chairs, WG	120 days before final is due
Prepare final draft WG report	Co-chairs, WG	90 days before final is due
Incorporate differing opinions, if applicable	Co-chairs	90 days before final is due
Submit final report to SC for approval, if applicable	Co-chairs	75 days before final due date
Track to final	NRC Co-chair	Until final
Decision to sunset	LO/ MSTR	At task completion

**Legend:**

ADAMS – NRC Agencywide Documents Access and Management System  
CRCPD - Conference of Radiation Control Program Directors  
NMSS – Office of Nuclear Material Safety and Safeguards.  
LO - Lead Organization  
MSTR – Division of Material Safety, State, Tribal, and Rulemaking Programs  
OAS - Organization of Agreement States  
OGC – Office of the General Counsel  
SC - Steering Committee  
WG – Working Group

**EXHIBIT 2    General Sample Request for Agreement State Membership on  
NRC/Agreement State Working Groups**

**WORKING GROUP TITLE:** [Proposed working group title]

**PURPOSE:** [Purpose of the working group]

**BACKGROUND:** [Background on why the working group needs to be created]

**SUGGESTED MEMBERSHIP:** The working group should consist of approximately [number] members, as follows:

- NRC co-chair
- Agreement State co-chair representing OAS
- Representative from NMSS (NRC)
- Agreement State program representative representing OAS
- Representative from the Office of General Counsel (OGC) (NRC)
- [Information on the working group member experience needed]

**LEVEL OF EFFORT EXPECTED OF MEMBERS:** [Expected level of effort]

**SCOPE OF ACTIVITIES AND EXPECTED PRODUCTS:** [Working group scope]

**STEERING COMMITTEE:** [State if a steering committee will be established or not]

### **EXHIBIT 3    General Sample Working Group Charter**

**WORKING GROUP TITLE:** [Proposed working group title]

#### **PROPOSED CHARTER**

**PURPOSE:** [Purpose of the working group]

**MEMBERSHIP:** The following personnel will serve on the working group: [List name and organization of the NRC and State Personnel]

**OBJECTIVES:** [Working group objectives]

**SCHEDULE:** [Expected schedule]

**LEVEL OF EFFORT EXPECTED OF MEMBERS:** [Level of effort expected for the working group and steering committee]

**STEERING COMMITTEE:** The following personnel will participate on the steering committee: [List name and organization of the NRC and State Personnel]

Working group meetings are not subject to the requirements of the Federal Advisory Committee Act (FACA), but they will be announced in advance through the NRC Public Meeting Schedule Web Site (available at <http://meetings.nrc.gov/pmns/mtg>). Maximum use will be made of other appropriate media for facilitating interaction with the working group; for example, conference calls, facsimiles, and e-mail. Working group meetings will be open to the public (unless pre-decisional information not normally publicly disclosed will be discussed) and will be held in the Washington, DC, area or other locations as agreed upon by the working group members. Other persons attending working group meetings will be welcome to provide comments to the working group for its consideration in either written form or orally at times specified by the working group chair. Meeting minutes and draft and final documents produced by the working group will be publicly available from the NRC Library (available at <http://www.nrc.gov/reading-rm.html>), with the exception of exempt information.

**EXHIBIT 4 Checklist for Establishing and Operating Rulemaking Working Groups**

TASK	RESPONSIBILITY	TIMEFRAME
Identify task, task leader, purpose, tentative schedule, etc.	LO	Pre-kickoff meeting
Verify billing code	Task leader	Pre-kickoff meeting
Prepare request for WG members	LO	Pre-kickoff meeting
Send request to MSTR for distribution to OAS for WG members and, if applicable, SC members	LO	Pre-kickoff meeting
Send request to NRC contacts for WG members and, if applicable, SC members	LO	Pre-kickoff meeting
OAS Board solicits a volunteer, notifies MSTR of individual appointee	OAS Director of Emerging Issues and Technology	Pre-kickoff meeting
OAS coordinates with CRCPD, as applicable	OAS chair	Pre-kickoff meeting
ID relevant documents	LO	Pre-kickoff meeting
Distribute relevant information to WG members	Task Leader	Prior to each meeting
Review relevant information	WG/steering committee	Prior to each meeting
Hold kickoff meeting	Task Leader	First meeting
Finalize charter	Task Leader	First meeting
Define ground rules, assign tasks, schedules	Task Leader	First meeting
Prepare meeting minutes	Task leader	30 days after meeting
Inform management of relevant organizations	Task leader/WG members	Ongoing
Hold WG meetings	Task leader	As needed
Hold SC meetings,	SC and Task Leader	As needed
Prepare progress reports to lead organization, SC	Task leader/WG	Periodically, as defined by the working group
Place relevant documents in ADAMS	Task leader	As needed
Prepare preliminary rule package/WG report	Task leader, WG	180 days before final is due
Prepare final preliminary rule/WG report	Task leader, WG	110 days before final is due
Submit final report to SC for approval	Task leader	95 days before final is due
Send to MSTR and ADM for Agreement State comment	Task leader	90 days before final due
Track to final	Task leader	Until final
Decision to sunset	LO	At task completion

Legend:

ADAMS – NRC Agencywide Documents Access and Management System

CRCPD - Conference of Radiation Control Program Directors

NMSS – Office of Nuclear Material Safety and Safeguards

LO - Lead Organization

MSTR – Division of Material Safety, State, Tribal, and Rulemaking Programs

OAS - Organization of Agreement States

OGC – Office of the General Counsel

SC - Steering Committee

WG – Working Group

**EXHIBIT 5    General Sample Request for Agreement State Membership on Rulemaking Working Groups**

**PURPOSE:** The NRC is soliciting an Agreement State representative to participate in an NRC Rulemaking Working Group to [explanation].

**BACKGROUND:** [Background on why the working group needs to be created]

**SUGGESTED MEMBERSHIP:** The working group should consist of approximately [number] members, as follows:

- NRC task leader
- Representative from the Agreement States appointed by OAS Board
- Representative from NMSS (NRC)
- Representative from Office of General Counsel (OGC) (NRC)
- Representative from NSIR (NRC)

[Information on the working group member experience needed]

**LEVEL OF EFFORT EXPECTED OF MEMBERS:** [Expected level of effort]

The contact for this rulemaking is [Contact Name]. Please notify [Contact name] of your designee at [e-mail address] or [phone number].