

(SP-97-068, October 1997, Program, OSP Procedures)
DATED: OCTOBER 2, 1997

SIGNED BY: PAUL H. LOHAUS

ALL AGREEMENT STATES
PENNSYLVANIA, OHIO, OKLAHOMA

TRANSMITTAL OF STATE AGREEMENTS PROGRAM INFORMATION (SP-97-068)

Your attention is invited to the enclosed correspondence which contains:

INCIDENT AND EVENT INFORMATION.....

PROGRAM MANAGEMENT INFORMATION...XX **FINAL OSP INTERNAL PROCEDURES:**
B.8 - AGREEMENT STATE PROJECT OFFICERS;
D.7 - PROCEDURE FOR REVIEWING STATE REGULATIONS; AND
D.24 - ANNUAL MEETINGS WITH AGREEMENT STATES BETWEEN IMPEP REVIEWS

TRAINING COURSE INFORMATION.....

TECHNICAL INFORMATION.....

OTHER INFORMATION.....

Supplementary information: Enclosed for your information and use are three final OSP internal procedures dated September 8, 1997: OSP Internal Procedure B.8 - Agreement State Projects Officers (B.8); OSP Internal Procedure D.7 - Procedure for Reviewing State Regulations (D.7); and OSP Internal Procedure D.24 - Annual Meetings With Agreement States Between IMPEP Reviews (D.24). Your input was important for the satisfactory completion of these documents for which we thank you.

B.8 provides specific points of contact (an Agreement State Project Officer (ASPO)) within OSP that will provide back-up staff support to Regional State Agreements Officers (RSAO), if requested, and serve as an identified OSP point of contact for requests for technical or other assistance from Agreement State staff as needed. Responsibilities of the ASPO include: (1) participate in the Integrated Materials Performance Evaluation Program (IMPEP) reviews of assigned States if the RSAO for that State is not available; (2) together with the RSAO, who serves as the lead, conducts one-day annual management meetings between IMPEP reviews; (3) when requested by the RSAO or Regional management, respond to inquiries and requests from Agreement States when the RSAO and/or backup support personnel in the Regional Office are not available; (4) maintain channels of communication with the RSAO for the assigned Agreement State; (5) maintain channels of communication

with assigned Agreement State on issues for which the RSAO is not responsible, (6) request RSAOs to apprise them of activities in an Agreement State that are of a non-routine nature; (7) serve as the OSP point of contact for requests for technical or other assistance from Agreement State staff as needed; (8) coordinate and request assistance from Regional Office and Headquarters staff, as needed, to respond to State requests,

(9) for non-Agreement States having an active interest in negotiating an Agreement, has the lead responsibility for negotiation activities upon receipt of a letter of intent from the Governor; and (10) keep abreast of activities in assigned States by review of correspondence, event reports, and regulation promulgation.

D.7 provides: (1) guidance for recommended use by States on preparation and submittal of proposed and final State regulations for NRC staff review; (2) procedures to be followed by NRC staff for review of State regulations including the scope of review, staff responsibilities, timeliness, and products to be prepared and communicated to the States documenting the results of the review; and (3) guidance to NRC staff on whether differences identified in State regulations are significant.

D.24 provides that staff will conduct annual one-day meetings with each of the Agreement States during any intervening years between IMPEP reviews. These annual meetings will be initiated in FY 1998, which begins October 1, 1997. The meetings will normally be led by the respective Regional State Agreements Officer (RSAO), and attended by one OSP staff member and Agreement State program representative(s). Topics to be discussed at the meetings include: (1) Agreement State action on previous IMPEP review findings; (2) program strengths and weaknesses identified by the State or NRC; (3) status of recently completed program or policy changes under development including: (a) changes in program staff; (b) program reorganizations; (c) legislative changes; and (d) redistribution of responsibilities; (4) status of NRC or program changes that could impact Agreement States; (5) any internal program audits conducted by the Agreement State; (6) status of all allegations previously referred by NRC to the Agreement State radiation control program for action, and methods used to resolve allegations that have been closed; (7) Nuclear Materials Events Database (NMED) reporting; and (8) the schedule for the next IMPEP review. Information obtained during an annual meeting could alter the schedule for the next IMPEP review or lead to additional correspondence or meetings with the State.

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

POINT OF CONTACT: Stephen N. Salomon
TELEPHONE: (301) 415-2368
FAX: (301) 415-3502
INTERNET: SNS@NRC.GOV

Paul H. Lohaus, Deputy Director
Office of State Programs

Enclosures:
As stated

OFFICE OF STATE PROGRAMS
INTERNAL PROCEDURE

DIVISION I

Policy
State

B.8 Agreement
Project Officers

I. Introduction

This procedure describes the responsibilities and functions of the Agreement State Project Officer (ASPO).

II. Objectives

The objectives of this procedure are:

- A. To provide back-up staff support to Regional State Agreements Officers (RSAO), as requested, through the formal designation of ASPOs.
- B. To identify the ASPO who will be responsible for handling inquiries from specific States and Regional offices.
- C. To have the ASPO be the most knowledgeable OSP staff person about assigned Agreement States.

III. Procedures

- A. Identification of Assigned ASPOs and Assigned States
 - 1. The OSP Deputy Director shall coordinate with OSP and Regional Office staff, as necessary, the assignment of specific State ASPOs. Appendix A provides the current assignments.
 - 2. OSP will provide the Agreement States a specific ASPO point of contact through periodic all Agreement State letters (each 6 months, or when an ASPO assignment changes).

B. Functions and Responsibilities of the ASPO

1. Participate in the Integrated Materials Performance Evaluation Program (IMPEP) reviews of assigned States if the RSAO for that State is not available.
2. Together with the RSAO, who serves as the lead, conducts one-day annual management meetings between IMPEP reviews.
3. When requested by the RSAO or Regional management, the ASPO will respond to inquiries and requests from Agreement States when the RSAO and/or backup support personnel in the Regional Office are not available.
4. Maintain channels of communication with the RSAO for the assigned Agreement State.
5. Maintain channels of communication with assigned Agreement State on issues for which the RSAO is unavailable or not responsible.
6. Request RSAOs to apprise them of activities in an Agreement State that are of a non-routine nature.
7. Serve as the OSP point of contact for requests for technical or other assistance from Agreement State staff as needed.
8. Coordinate and request assistance from Regional Office and Headquarters staff, as needed, to respond to State requests.
9. For non-Agreement States having an active interest in negotiating an Agreement, has the lead responsibility for negotiation activities upon receipt of a letter of intent from the Governor.
10. Keep abreast of activities in assigned States by review of correspondence, event reports, and regulation promulgation.

Attachment:

Appendix A: ASPO Assignments Listing

AGREEMENT STATE PROJECT OFFICER ASSIGNMENT LISTINGS

ASPO	ASSIGNED STATES BY REGION			
	I	II	III	IV
BLANTON	MASSACHUSETTS NEW HAMPSHIRE NYS LABOR			CALIFORNIA
BOLLING			IOWA	ARKANSAS KANSAS UTAH
LARKINS		ALABAMA N CAROLINA TENNESSEE		OKLAHOMA*
MAUPIN				ARIZONA COLORADO NEVADA NEW MEXICO
O'BRIEN	MAINE MARYLAND NY CITY & STATE HEALTH			
MYERS				LOUISIANA NORTH DAKOTA OREGON TEXAS
RAKOVAN		KENTUCKY MISSISSIPPI SOUTH CAROLINA		NEBRASKA
SALOMON	PENNSYLVANIA* RHODE ISLAND			
SCHNEIDER	NY STATE DEC	FLORIDA GEORGIA		
SOLLENBERGER			ILLINOIS OHIO*	WASHINGTON

* NON-AGREEMENT STATES HAVING ACTIVE INTEREST IN NEGOTIATING AGREEMENTS.

State Agreements Program Standard Approval

The attached Office of State Programs Internal Procedure B.8, Revision 0, **Agreement State Project Officers**, is submitted for final approval.

Thomas J. O'Brien Date

Paul H. Lohaus, Deputy Director, OSP Date

Richard L. Bangart, Director, OSP Date

**OFFICE OF STATE PROGRAMS
INTERNAL PROCEDURES**

Post and Pre-Agreement
Regulations Review

D.7 Procedure for Reviewing
State
Regulations

I. INTRODUCTION

This procedure describes the objectives and process for review and comment on proposed and final State regulations.

II. OBJECTIVES

The objectives of this procedure are:

- A. Provide guidance for recommended use by States on preparation and submittal of proposed and final State regulations for NRC staff review.
- B. Establish the procedures to be followed by NRC staff for review of State regulations including the scope of review, staff responsibilities, timeliness, and products to be prepared and communicated to the State documenting the results of the review.
- C. Provide guidance to NRC staff on whether differences identified in State regulations are significant.

III. BACKGROUND

- A. Each Agreement State has the responsibility to promulgate legally binding requirements that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended. States generally fulfill that responsibility through promulgations of regulations. Because each Agreement State possesses detailed knowledge of its own regulations, Agreement States are best able to determine that their regulations are compatible with NRC regulations and where not compatible, for stating why they are not compatible.
- B. Agreement States are requested to submit proposed amendments to their regulations, usually when they are published for public comment, for review and comment by NRC staff. Agreement States also are requested to submit final regulations for review and an NRC determination whether each regulation satisfies the compatibility and health and safety designation associated with equivalent regulations of the Commission. This Office of State Programs (OSP) Internal Procedure **D.7, Procedure for Reviewing State Regulations**, is used for review.
- C. In order to assure States have adequate time to promulgate compatible regulations within three years of the effective date of changes in NRC regulations, NRC staff prepares and publishes semiannually a **Chronology of Amendments**. Included in the chronology is identification of each regulation change, the specific sections modified or established by the regulation

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change, the effective date of the change, and the compatibility or health and safety designation.

IV. GUIDANCE FOR USE BY STATES

- A. Agreement States and Non-Agreement States seeking Agreements should submit proposed and final regulations to the Deputy Director, OSP, for NRC staff review and specifically request comments.
- B. Appendix A to this procedure provides guidance for recommended use by States on the form, content and process to be followed for preparation and submittal of proposed and final regulations to NRC staff for review.
- C. The State, in its transmittal letter, is requested to identify the date comments are needed from NRC. The State is also requested to identify any significant difference between the State's regulation and the NRC equivalent regulation and the rationale for the difference.

V. GUIDANCE TO NRC STAFF

- A. Staff Responsibilities
 1. The Director, OSP, has overall responsibility for the review and determination of the compatibility of Agreement State regulations. The Deputy Director, OSP, has primary responsibility for coordinating the review of Agreement State regulations. The State Regulations Review Coordinator (Coordinator) is responsible for review project management and assuring overall quality control of the review process, for keeping the OSP Management Analyst informed when an Agreement State regulation is received so the status of the review can be tracked by the OSP Management Analyst through closure, for keeping the Chronology of Amendments up-to-date and for preparing a "Summary Report of Regulation Compatibility" for each IMPEP team at the time of each State's IMPEP review. The Coordinator is also responsible for assuring consistency of reviews among reviewers and discussing potential delays or other potential problems with the Deputy Director or Director for resolution when necessary.
 2. The Deputy Director, OSP, is designated to receive existing Agreement State regulations. Overall review project management responsibility is assigned to the Coordinator. Upon receipt, the Coordinator will first determine whether the Regional State Agreements Officer (RSAO) can conduct the review. If not, the Coordinator, in consultation with the Deputy Director, OSP, will assign review responsibility to one or more OSP staff depending on the complexity of the regulation package, or evaluate use of contractor assistance to complete the review. Review assignment should be

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completed within three days of receipt. The Coordinator will confirm the OSP Management Analyst has received a copy of the incoming regulation review request from the State and will inform the Management Analyst of the assigned reviewer(s) and the due date requested by or negotiated with the State. The Management Analyst will enter the regulation review in the OSP Action Item Tracking System and the Agreement State regulation review data base (when available).

B. Review Guidance for Proposed and Final Regulations

1. OSP staff is responsible for completing reviews of all non-Agreement State regulations submitted by States seeking to enter an Agreement with NRC using the same guidance as for Agreement States.
2. In some cases, the reviewer may need to consult with the Office of Nuclear Material Safety and Safeguards (NMSS) or other NRC offices as necessary to support completion of the review based on issues raised during the review and their significance. If requested, NMSS and OGC, or other NRC offices, review State regulations according to their own internal procedures. The Deputy Director should, if necessary, conduct meetings with commenting offices to resolve differing views.
3. In the case where a non-Agreement State has requested NRC comments on a proposed regulation that has been published by the State for public review and comment, the reviewer should request review of the regulation by NMSS, the Regional Office and OGC.
4. The reviewer is responsible for preparing the comment letter back to the State and obtaining the concurrence from OGC or other NRC offices when required.
5. Public Responsiveness Requirement

The assigned staff reviewer is required to notify the State by phone or E-mail within two weeks of receipt of an Agreement State regulation package that it has been received and assigned for review. The notification should include whether the staff expects to be able to meet the State's requested date for comments. If not, the staff should establish a revised date that is acceptable to the State. If an NRC consultant will conduct the review, the Coordinator will notify the State.

6. General Review Guidance

The following references are useful in the review of Agreement State regulations.

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- a. **NRC Regulations Title 10-Chapter 1, Code of Federal Regulations**, published by the Division of Freedom of Information and Publications Services, NRC, codified and reissued periodically.
- b. The latest **Chronology of Amendments** provided to the States by All Agreement States letter.
- c. **Management Directive 5.9, Adequacy and Compatibility of Agreement State Programs**, and associated **Handbook 5.9**.
- d. **OSP Internal Procedure B.7 (Revision 1): Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements**; and
- e. **Suggested State Regulations** (that have received final approval by NRC).

7. Specific Review Guidance

- a. The reviewer should normally limit review to those portions of a State's regulation that are being added or amended by the State's rulemaking action. The reviewer should also limit review to those parts or sections of the regulation that are either required for compatibility or health and safety as set out in **OSP Internal Procedure B.7** (i.e., Categories A, B, C or H&S).
- b. The reviewer should conduct a comparison of the intent of the State's regulation with the equivalent NRC regulation to determine if the State's regulation is "essentially identical" (Category A and B) or meets the "essential objectives" (Category C and H&S) as defined in the glossary of **Handbook 5.9**. Differences that are identified, which either significantly change or affect the intent of the regulation, should be analyzed further and a determination made whether the regulation meets (or does not meet) the compatibility or health and safety objective of the equivalent NRC regulation. Guidance to assist in determining when a difference is significant and should be included as a comment on the State's regulation is set out in Appendix B, **Handbook 5.9**, and **OSP Internal Procedure B.7**.
- c. When the NRC staff has reviewed a previous version of the regulation, retrieve and review any comments returned to the State on the subject regulations to examine how the State addressed the comments.

8. Contractor Assistance

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A request for consultant or contractor assistance in review of proposed or final State regulations can only be initiated by the OSP technical monitor, but requires the concurrence of the Director, OSP. When using such assistance, the Coordinator should:

- a. Prepare a cover letter and attach the regulations package for forwarding to the consultant or contractor following the instructions of the technical monitor, including the instruction to follow this procedure to conduct the review.
- b. Evaluate the comments as the basis for development of a comment letter to the State upon return of the consultant's or contractor's review report.

9. Communication of the Review Results

- a. The reviewer should prepare a formal comment letter or "no comment" letter to the State documenting the results of the review. The letter should be addressed to the State Radiation Control Program Director unless State staff has specified otherwise, and should normally be prepared for signature by the Deputy Director, OSP. The standard format and content for the letter is set out in either Appendix C (for proposed regulations) or Appendix D (for final regulations).
- b. Comments resulting from the review should be set out in an enclosure to the letter and should contain, as a minimum, the following information:
 - i. Citation of the part or section of the State regulation reviewed;
 - ii. Citation of the equivalent NRC regulation;
 - iii. Compatibility or H&S category assigned to that section or part of the regulation;
 - iv. NRC-approved Suggested State Regulation (SSR), if any; and
 - v. Description of the difference identified by the reviewer between the State and NRC regulation, significance of the difference (e.g., why it does not meet the assigned compatibility category), and description of at least one course of action the State could take to address the comment.
- c. All offices participating in the review and OGC should be on concurrence. For reviews conducted by the RSAO, the concurrence of the Regional Counsel may be

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required following Regional practice. The concurrence of OGC is always required. The Deputy Director, OSP, signs the comment letter prepared by the reviewer after concurrence by the Coordinator.

- d. All letters should use the Regulatory Information Distribution System (RIDS) codes SP05-08, corresponding to NRC Regions I-IV, on the concurrence sheet.
- e. After determining the compatibility of final regulations, the reviewer should provide the information to the Coordinator. The Coordinator reviews and concurs on all letters. The reviewer should ensure that a copy of the letter is provided to the OSP Management Analyst so that the compatibility determination can be entered and to update the status or close out the action in the tracking system.

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APPENDICES

- Appendix A. Guidance for Recommended Use by Agreement States for Submitting Regulations for NRC Staff Review**
- Appendix B. Criteria for Comparing Regulations and Identifying Differences**
- Appendix C. Sample Comment Letter for Proposed State Regulations**
- Appendix D. Sample Comment Letter for Final State Regulations**

Appendix A

**GUIDANCE FOR RECOMMENDED USE BY AGREEMENT STATES FOR SUBMITTING REGULATIONS
FOR NRC STAFF REVIEW**

I. Introduction

This guidance to Agreement States and States seeking an Agreement pertains to the submittal of proposed and final State regulations to NRC staff for review to confirm that they are compatible with equivalent regulations of the NRC. NRC's goal is to conduct a single review for proposed regulations and a single review for final promulgated regulations. Although many States base their regulations on Suggested State Regulations (SSRs), until the SSRs are updated and reviewed with regard to compatibility and approved by NRC, the State should not assume that State regulations based on SSRs are necessarily compatible. The NRC review process compares all State regulations with the equivalent regulations of the NRC and NRC-approved final SSR.

II. State Submittal Guidance

- A. For proposed regulations at the draft stage or, preferably, the public comment stage, but not both, the Radiation Control Program Director, or designee (Director), in preparing and submitting proposed regulations, is requested to identify by line-in/line-out text, or similar identification, the changes to NRC's regulations that are being incorporated into the State's regulations. The Director is requested to identify at what point in the State's regulatory process NRC's review would be of most benefit to the State, i.e., either at the draft stage or the public comment stage, and is requested to have NRC review at that stage. For final promulgated regulation changes, the Director is requested to identify by line-in/line-out text, or similar identification, the changes made between the proposed regulation submitted above and the final regulation. The Director is requested to discuss how the State has addressed or incorporated NRC's comments on the proposed regulation. The Director is requested to submit an electronic version of the regulation, whenever possible, using a word processing software that is compatible with "WordPerfect 5.1" or higher.
- B. The Director is requested to submit proposed regulations to the Deputy Director, OSP. The regulations are requested to be submitted at least sixty days before the State needs comments, or concurrently with the State publication of the proposed regulations for public comment, whichever is earlier. Final regulations as officially adopted by the State are requested to be submitted to the Deputy Director, OSP, for review after the regulations are published. The Director is requested to identify the date by which the State needs comments from NRC in the transmittal letter.

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- C. With both proposed or final regulation, the Director is requested to document whether the Agreement State believes its regulation satisfies the compatibility and health and safety component criteria in **Handbook 5.9** and the assigned compatibility and health and safety component designations set out in **OSP Internal Procedure B.7 (Revision 1): Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements**. The staff reviews State regulations based on this guidance and the guidance set out in Appendix B to this procedure. If the regulation does not satisfy the compatibility and health and safety designation, the Director is requested to identify those sections and to describe the State's rationale for promulgating a regulation that is not compatible with NRC's regulation. The Director is requested also to describe any constraints that prevent the State from promulgating a rule that satisfies the compatibility or health and safety designation and how the constraints will be removed, if possible.
- D. The State may be requested to submit some additional relevant information, as necessary, such as a copy of the State regulations package, public proceedings, advisory committee comments, and public comments that influenced the text of the final regulations.

Appendix B

CRITERIA FOR COMPARING REGULATIONS AND IDENTIFYING DIFFERENCES

I. DIFFERENCES THAT ARE NOT SIGNIFICANT

In most cases, the following differences between State and NRC regulations are not significant and do NOT affect compatibility or the health and safety objectives of the regulation. These differences do not need to be identified or commented on.

- A. Differences that do not result in Agreement State licensees being subject to a requirement different from the equivalent NRC requirement.
- B. Differences that result from the State regulation being made applicable to sources of radiation not covered by the Atomic Energy Act (e.g., x-rays, naturally-occurring and accelerator-produced radioactive materials);
- C. Differences between the ordering of the subdivisions of the NRC and the State regulations;
- D. The substitution of terms with the same meaning (where the use of essentially identical terms is not required) according to the editorial style of the State, i.e., "shall" or "must," "rule" or "regulation," "Commission" or "agency," "device" or "equipment;"
- E. The omission of any portion of the text of an NRC regulation that provides an example, contains supplementary material, or provides a reference to another regulation for the convenience of the reader;
- F. The incorporation, as a requirement in the State regulation, of any portion of the text of an NRC regulation that provides an example, contains supplementary material, or provides a reference to another regulation for the convenience of the reader;
- G. Modifications to punctuation that do not change the meaning of the text, i.e., changing a semicolon (";") to a conjunction followed by a comma ("and,"); and
- H. Any difference that results from the use of SI units for record keeping and reporting.

II. DIFFERENCES THAT ARE SIGNIFICANT

In some cases, the difference in the wording between State and NRC regulations may significantly change or affect the intent of the regulation and may therefore affect compatibility or the health and safety objectives of the regulation. For regulations with Category A

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and B compatibility designations, the differences or changes are significant if licensee actions to satisfy the NRC equivalent regulation are not the same as those actions required to satisfy the Agreement State regulation for all phases of the licensee's operations. For regulations with a Category C compatibility designation or a health and safety designation, the changes or differences in an Agreement state regulation are acceptable only if an Agreement State licensee must take the same action needed to satisfy the NRC-equivalent regulation, or must take actions in addition to those required to satisfy the NRC-equivalent regulation.

A conclusion that the text of the State regulation leads to a different interpretation than the text of the equivalent NRC regulation, for regulations designated Category A or B, would result in a finding that the regulation does not meet the Category A or B designation. The reviewer should describe why the State's regulation leads to a different interpretation.

A conclusion that the regulation does not reflect either the essential objective of the NRC regulation or the State's regulation creates a conflict, duplication or a gap would result in a finding that the regulation does not meet the Category C or Health and Safety designation. Please see Section VII of **Handbook 5.9** for definitions of essential objective, conflict, duplication, and gap.

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Appendix C

Sample Comment Letter for Proposed State Regulations

Notes: alternate text shown in redline to be substituted as appropriate
italicized text is guidance for determining text to be entered

Name, Title
Address

Dear Mr. (Ms.) Name:

As requested, we have reviewed the proposed regulations (*identify the regulations using the same title or description given by the State*), (*give date of regulations or cover letter date if regulations are undated*). The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Part __ (section number). We also discussed our review of the regulations with (*name of State person contacted*) on (*date*).

As a result of our review we have no (*number of comments*) comments (that have been identified in the enclosure). (Please note that we have limited our review to regulations required for compatibility and/or health and safety.) Under our current procedure, a finding that a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations were adopted (*incorporating the comments and*) without (*other*) significant change, they would meet the compatibility and health and safety categories established in OSP Internal Procedure B.7.

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in our All Agreement States Letter SP-96-027, "Request to Highlight Changes to Agreement State Regulations Submitted to NRC for Compatibility Review" (March 1, 1996), please highlight the final changes and send one copy in a computer readable format, if possible.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me or (*give name of reviewer or other contact*) of my staff at (301) 415-2322.

Sincerely,

, Deputy Director
Office of State Programs

Enclosure:
As stated

D.7 - Procedure for Reviewing State Regulations

Distribution:

DIR RF [Task Number] DCD (SP Number)
 Management Analyst
 [Other staff as needed] PDR (YES_✓)
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DATE	DATE	DATE	DATE	DATE	DATE

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D.7 - Procedure for Reviewing State Regulations

Appendix D

Sample Comment Letter for Final State Regulations

Notes: alternate text shown in redline to be substituted as appropriate
italicized text is guidance for determining text to be entered

Name, Title
Address

Dear Mr. (Ms.) Name:

We have reviewed the final (*name of State*) regulations (*identify the regulations using the title or description given by the State*), which became effective on (*effective date of the regulations*). The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Part ___ (*section number*). We also discussed our review of the regulations with (*name of State person contacted*) on (*date*).

(*If there are comments, use the following:*)

As a result of the NRC review we have *identified (number of comments)* comments, as enclosed. These comments must be addressed to meet the compatibility and health and safety categories established in OSP Internal Procedure B.7.

(*If there are no comments, use the following:*)

As a result of the NRC review, we have determined that the (*name of State*) regulations, as adopted, meet the compatibility and health and safety categories established in OSP Internal Procedure B.7.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me or (*give name of reviewer or other contact*) of my staff at (301) 415-2322.

Sincerely,

, Deputy Director
Office of State Programs

Enclosure:
As stated

D.7 - Procedure for Reviewing State Regulations

**COMMENTS ON (PROPOSED or FINAL) (State name) REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

<u>Category</u>	<u>State Regulation</u>	<u>NRC Regulation</u>	<u>NRC-Approved SSR (if any)</u>	<u>Subject and Comments</u>
B	04.1-14	20.2006 (excluding Appendix F)		Transfer for Disposal and Manifests Paragraph E was omitted from Appendix G, 10 CFR 20 (60 FR 25983). Unless the missing paragraph is adopted, the regulation would not meet the compatibility criterion of a program element with transboundary implications.
C	5.10	34.25		Leak Testing, Repair, Tagging, Opening, Modification, and Replacement of Sealed Sources RH 5.10 requires the labeling of exposure devices, while the equivalent NRC regulation in 10 CFR 34.25(e) requires the labeling of sealed sources not fastened to or contained in exposure devices. Regulatory requirements for the labeling of exposure devices are found in 10 CFR 34.20(b) and the equivalent State regulation RH 5.5.2. As a result, the State regulations do not meet the compatibility criteria with respect to the requirements for labeling of sealed sources not fastened to or contained in exposure devices. Consequently, RH 5.10.5 should be amended to incorporate the essential objectives of the text of 10 CFR 34.25(e).

State Agreements Program Standard Approval

The attached Office of State Programs Internal Procedure D.7, Revision 3, **Procedure for Reviewing State Regulations** is submitted for final approval.

Stephen N. Salomon, Physicist Date

Paul H. Lohaus, Deputy Director, OSP Date

Richard L. Bangart, Director, OSP Date

OFFICE OF STATE PROGRAMS
INTERNAL PROCEDURE

DIVISION I

Post-Agreement
Activities
Between

D.24 Annual Meetings With
Agreement States

IMPEP Reviews

I. Introduction

This procedure describes the general objectives and procedures for an annual meeting with Agreement States, including scheduling, assigning personnel, conducting, and reporting.

II. Objectives

The objectives of this procedure are:

- A. Establish procedures for scheduling and conducting an annual one day meeting with each Agreement State not scheduled for an Integrated Materials Performance Evaluation Program (IMPEP) review that fiscal year.
- B. Identify the NRC staff and requested State staff who should participate in an annual meeting, including staff responsible for leading the meeting.
- C. Define the scope of activities and areas that should be discussed during an annual meeting.
- D. Identify methods and timing for documenting and communicating the results of the meeting to the State.
- E. Specify the correct steps to take when concerns are raised during an annual meeting.

III. Background

In their respective Management Review Board (MRB) meetings, Agreement States consistently commented on the need for NRC presence on a more frequent basis than once every four years. At the September 1996 Annual Agreement States Meeting, the issue of conducting a mid-cycle or annual meeting was discussed. In SECY-96-234, "Status Report on Implementation of the Integrated Materials Performance Evaluation Program," November 12, 1996, it was proposed that an annual one day meeting with each of those Agreement States not scheduled for IMPEP review in that year take place in order to help all parties to remain knowledgeable of the respective programs and to conduct planning for the next IMPEP review.

IV. Procedures

- A. RSAO's will be responsible for scheduling meetings with each of those Agreement States in their Region not scheduled for an IMPEP review that fiscal year. The project manager in charge of IMPEP

coordination will inform the RSAOs of the proposed IMPEP schedule for the year.

- B. The RSAO for the respective Agreement State will coordinate with Regional management, Agreement State management, and the OSP Agreement State Project Officer (ASPO) to assure that a suitable date for the meeting is chosen.
- C. Once a proposed meeting date has been chosen, the RSAO will send a letter to the Agreement State Radiation Control Program Director a minimum of 60 days before the meeting confirming the date for the meeting. The letter should include a draft agenda, as well as a request for additional specific meeting discussion topics. Appropriate Regional management, the Deputy Director, OSP, the ASPO, and the senior manager responsible for IMPEP coordination should be on distribution for the letter. A sample letter is attached as Appendix A.
- D. In scheduling and planning for the meeting, the RSAO should assure that State attendance at the meeting will include at least one radiation control program representative who can speak on behalf of the Agreement State program. Preferably, the Agreement State Radiation Control Program Director will attend the meeting. Agreement State program staff attendance at the meeting will be determined by the Agreement State.
- E. The RSAO will normally serve as lead for the meeting. If the RSAO cannot serve as lead, the RSAO will reschedule the meeting, or request that the ASPO assume lead responsibility.
- F. The ASPO will normally attend the meeting. An alternate OSP staff member may attend the meeting if the ASPO cannot attend.
- G. The scope of discussions during the meeting should include (but is not limited to):
 - 1. Agreement State action on previous IMPEP review findings.
 - 2. Strengths and/or weaknesses of the State program as identified by the State or NRC.
 - 3. Status of recently completed State program or policy changes under development including:
 - a. Changes in program staff
 - b. Program reorganizations
 - c. Legislative changes
 - d. Redistribution of responsibilities
 - e. Changes in program budget/funding.
 - 4. Status of NRC program changes that could impact Agreement States.
 - 5. Any internal program audits/self assessments conducted by the Agreement State Radiation Control Program.
 - 6. Status of all allegations previously referred by NRC to the Agreement State radiation control program for action, and methods used to resolve allegations that have been closed.

7. Compatibility of Agreement State regulations.
 8. Nuclear Material Events Database (NMED) reporting
 9. Schedule for the next IMPEP review.
- H. The annual meeting is for discussions and information exchange only, not for a formal evaluation. The annual meeting is not intended to include reviews of licensing, inspection, incident or allegation files.
- I. During the meeting, NRC representatives should request introductions to new staff or to staff that they have not met.
- J. As time permits, open idea exchanges between NRC and Agreement State staff not in attendance at the meeting is encouraged.
- K. The meeting lead should dispatch a summary letter of the meeting to the Agreement State Radiation Control Program Director within 30 days and provide a copy to appropriate Regional management, the Deputy Director, OSP, the ASPO, and the IMPEP coordinator. The letter should include a list of meeting attendees, a general synopsis of what was discussed during the meeting, and a detailed summary identifying any key facts or changes, both positive and negative, from the meeting which could affect the focus and timing of future IMPEP reviews, or program implementation. The State should be requested to provide comment if they believe that the letter content does not accurately reflect the meeting discussions. A sample letter is attached as Appendix B.
- L. If concerns about an Agreement State program are raised during the meeting:

1. The RSAO and ASPO should immediately inform OSP management, and recommend a course of action.
2. OSP management along with the RSAO and ASPO will agree on a course of action. Possible actions include altering the schedule for the next IMPEP review of the specific State, conducting a special review of selected program areas, or setting up additional correspondence or meetings with the State.
3. Once a formal course of action has been decided, an additional letter signed by the Director, Office of State Programs should be sent to the Agreement State Radiation Control Program Director along with the meeting summary letter. The letter should include an explanation of the specific course of action decided upon by OSP management, the RSAO, and the ASPO, as well as a detailed summary of the reasons behind the decision. A sample letter is attached as Appendix C.

Attachments:

Appendix A

Appendix B

Appendix C

[RADIATION CONTROL PROGRAM DIRECTOR]

Dear [Director]:

Since [State] is not scheduled for an Integrated Materials Performance Evaluation Program (IMPEP) review for FY [year], we request a meeting, no longer than one day, to discuss your Agreement State program and share programmatic information. This letter confirms that, after previous coordination, the meeting is scheduled for [date] and will be held in your offices. [ASPO], Office of State Programs assigned as Project Officer for [State], will be the other NRC representative in attendance.

The topics to be discussed at the meeting will include:

1. Agreement State action on previous IMPEP review findings.
2. Strengths and/or weaknesses of the State program as identified by the State or NRC.
3. Status of recently completed State program or policy changes under development including:
 - a. Changes in program staff
 - b. Program reorganizations
 - c. Legislative changes
 - d. Redistribution of responsibilities
 - e. Changes in program budget/funding.
4. Status of NRC program changes that could impact Agreement States.
5. Any internal program audits/self assessments conducted by the Agreement State Radiation Control Program.
6. Status of all allegations previously referred by NRC to the Agreement State radiation control program for action, and methods used to resolve allegations that have been closed.
7. Compatibility of Agreement State regulations.
8. Nuclear Material Events Database (NMED) reporting.
9. Schedule for the next IMPEP review.

If there are any additional specific topics you would like to cover, or if you would like to focus on a specific area, please let me know.

If you have any questions, please call me at [RSAO phone number], or e-mail to [RSAO e-mail address].

Sincerely,

[RSAO]

cc: [SLO]
[ASPO]

[RADIATION CONTROL PROGRAM DIRECTOR]

Dear [Director]:

This year's annual meeting with [State] was held on [date]. The purpose of this meeting was to review and discuss the status of [State's] Agreement State program. The NRC was represented by [ASPO and/or other OSP staff] from the NRC's Office of State Programs, [any additional NRC staff in attendance including Regional staff] and me. Specific topics and issues of importance discussed at the meeting included [list a few topics discussed at the meeting that were particularly noteworthy].

I have completed and enclosed a general meeting summary, including any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me [RSAO phone number], or e-mail to [RSAO e-mail address] to discuss your concerns.

Sincerely,

[RSAO]

Enclosure:
As stated

cc: [SLO]
[ASPO]

[RADIATION CONTROL PROGRAM DIRECTOR]

Dear [Director]:

This letter is to inform you that concerns about your program have been raised due to discussions at the annual meeting with [State] held on [date]. The annual meetings were created to help all parties involved remain knowledgeable of an Agreement State's radiation control program and to conduct planning for the next IMPEP review. In the case that concerns are raised due to discussions at an annual meeting, the Office of State Programs can decide to alter the schedule for the next IMPEP review of the specific State, conduct a special review of selected program areas, or set up additional correspondence or meetings with the State.

The concerns about your program include:

[list in detail each individual concern about the program]

Due to these concerns, the Office of State Programs has decided to [give a detailed description of what action will be taken].

We ask that you respond to this letter in writing within 30 days. If you have any questions, please contact [RSAO], RSAO of Region [region], or me.

Sincerely,

[Director, Office of State Programs]

cc: [RSAO]
[SLO]
[ASPO]

State Agreements Program Standard Approval

The attached Office of State Programs Internal Procedure D.24, Revision 0, **Annual Meetings with Agreement States Between IMPEP Reviews**, is submitted for final approval.

Lance J. Rakovan, Health Physicist Date

Paul H. Lohaus, Deputy Director, OSP Date

Richard L. Bangart, Director, OSP Date