

(SP-98-082, October 1998, Program, Procedure SA-106)

DATED: OCTOBER 14, 1998

SIGNED BY: KATHLEEN N. SCHNEIDER FOR
PAUL H. LOHAUS

ALL AGREEMENT STATES
MINNESOTA, PENNSYLVANIA, OHIO, OKLAHOMA

TRANSMITTAL OF STATE AGREEMENTS PROGRAM INFORMATION (SP-98-082)

Your attention is invited to the correspondence which contains:

INCIDENT AND EVENT INFORMATION.....

PROGRAM MANAGEMENT INFORMATION.....XX

OSP PROCEDURE SA-106,
MANAGEMENT REVIEW
BOARD

TRAINING COURSE INFORMATION.....

TECHNICAL INFORMATION.....

OTHER INFORMATION.....

Supplementary information: Enclosed is the Office of State Programs Procedure SA-106, "Management Review Board," issued September 23, 1998. This document was previously sent to you in the August 27, 1998 All Agreement State Letter (SP-98-073) for comment.

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

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Paul H. Lohaus, Deputy Director
Office of State Programs

Enclosure:
As stated



OSP Procedure Approval

Management Review Board - SA-106

Issue Date: September 23, 1998

Expiration Date: September 23, 1999

Richard L. Bangart
Director, OSP

Original signed by:
Richard L. Bangart

Date:
9/23/98

Paul H. Lohaus
Deputy Director, OSP

Original signed by:
Paul H. Lohaus

Date:
9/23/98

Kathleen N. Schneider
Procedure Contact, OSP:

Original signed by:
Kathleen N. Schneider

Date:
9/23/98

NOTE

The OSP Director's Secretary is responsible for the maintenance of this master copy document as part of the OSP Procedure Manual. Any changes to the procedure will be the responsibility of the OSP Procedure Contact. Copies of OSP procedures will be distributed for information.



Procedure Title:
Management Review Board
Procedure Number: SA-106

Page: 1 of 6

Issue Date:
9/23/98

I. INTRODUCTION

Per Management Directive 5.6, Integrated Materials Performance Evaluation Program (IMPEP), it is the policy of NRC to evaluate the NRC Regional materials programs and Agreement State radiation control programs in an integrated manner, using common and non-common performance indicators, to ensure that public health and safety are adequately protected and that Agreement State programs are compatible with NRC's program. The Management Review Board (MRB) provides a senior-level review of the IMPEP team's findings and recommendations and issues the final NRC findings to the Region or Agreement State. For Agreement States, these findings can include decisions regarding the heightened oversight, probation, suspension, or revocation of some or all aspects of the regulatory program discontinued by the NRC and assumed by the Agreement State.

II. OBJECTIVE

To provide the guidelines that will be followed by the MRB when conducting MRB meetings for IMPEP reviews and issuing findings for Region and Agreement State programs.

III. BACKGROUND

- A. The MRB makes the overall assessment of each NRC Region or Agreement State program on the basis of the proposed final report and recommendations prepared by the IMPEP team that conducted the review of that Region or State, including any unique circumstances.
- B. The overall MRB assessment includes a consideration of information provided by the Region or State at the MRB meeting.
- C. The MRB may also convene to evaluate special reviews of a Region or an Agreement State program conducted to assess a specific program weakness.

IV. ROLES AND RESPONSIBILITIES

- A. The MRB is responsible for providing the senior level review. Its membership consists of senior NRC managers, or their designees, to include: Deputy Executive Director for Regulatory Programs (DEDPR); Director, Office of Nuclear Material

Safety and Safeguards (NMSS); Director, Office of State Programs (OSP); Director, Office for Analysis and Evaluation of Operational Data (AEOD); General Counsel; and an Agreement State Liaison to the MRB. A quorum for an MRB meeting consists of at least three voting members of the MRB. Designees count as part of the quorum.

- B. The DEDR, or DEDR's designee, is the Chair of the MRB. The Chair has signature authority for outgoing correspondence resulting from MRB proceedings.
- C. The Organization of Agreement States is responsible for specifying a representative to serve as a member of each MRB, as a non-voting Agreement State Liaison. In this capacity, the State representative receives applicable documentation and engages in all MRB discussions. The Agreement State Liaison representative is expected to provide an Agreement State perspective on any matter that is discussed or voted on by the MRB.
- D. OSP is the lead office responsible for the coordination of Agreement State MRBs.
- E. NMSS is the lead office responsible for the coordination of Regional MRBs.
- F. AEOD is the lead office responsible for NRC coordination of incident response and nuclear material events database-related issues.

V. GUIDANCE

A. MRB

1. MRB meetings are to be conducted approximately 74 days from the last day of the IMPEP review in order to issue the final report within 104 days. These meetings are open to the public and published in the weekly notice of "NRC Meetings Open to the Public." MRB meetings may take place beyond the 74th day in order to assemble a quorum to accommodate Agreement State/Regional schedules, and/or to incorporate important supplemental material. However, every effort should be made by OSP and NMSS to meet the timeliness goal for issuing the final reports in 104 days.
2. The MRB Chair consults with other MRB members to reach a consensus position on each indicator and, if necessary, provides specific instructions to the IMPEP team leader. If a consensus is not apparent, a vote is taken and a simple majority decides the MRB's position about report revisions.

2. In some instances, the overall program adequacy finding and, for Agreement States, the compatibility finding, may not be possible at the time of the MRB meeting. In those cases, a report is issued to the Region or Agreement State within the goal of 104 days that addresses both completed review findings and the status of outstanding issues. A report supplement will be issued when the outstanding areas are finally resolved by the MRB.
4. The MRB may choose to go into an executive session during the public meeting at the discretion of the MRB Chair. Any voting in an executive session will be reported in the public meeting.
5. If the MRB recommends that NRC commence proceedings to initially place an Agreement State or Regional program on heightened oversight as outlined in MD 5.6, OSP or NMSS is the lead for preparation of a memorandum to the Commission. (See Appendix A).
 - a. Heightened oversight could include requests for an Agreement State/Regional program improvement plan, NRC/State management meetings, periodic program progress reports, periodic NRC/Agreement State conference calls, and a follow-up review by the IMPEP team. The MRB will designate a recommended period of time for the heightened oversight, usually not to exceed one year.
 - b. The MRB will consider lifting the heightened oversight status after a follow-up review conducted by an IMPEP review team or after a similar review conducted by OSP, NMSS or a Region if no follow-up review is conducted. The MRB will consider the improvements implemented by the program and the resolution of the IMPEP review team's recommendations directly related to the program's adequacy.
 - c. In the event the Agreement State does not correct the deficiencies that led to the heightened oversight within the designated time frame and extenuating circumstances do not exist, OSP will prepare at the direction of the MRB, a Commission paper requesting approval for the appropriate actions to take regarding the Agreement State program. This Commission paper will include the status of the Agreement State program, recommendations of the MRB and any other pertinent information. (See Appendix B for a sample Commission paper.) In the event the Region does not correct such deficiencies, additional corrective actions will be addressed internally on a case-by-case basis. (See Section V.A.9.)

6. If the MRB recommends that NRC initiate proceedings to place an Agreement State program on probation, OSP Procedure SA-113, *Placing an Agreement State on Probation*, should be followed.
7. If the MRB recommends that NRC initiate proceedings to suspend an Agreement State program, OSP Procedure SA-114, *Suspension of a Section 274b Agreement*, should be followed.
8. If the MRB recommends that NRC initiate proceedings to terminate an Agreement State program, OSP Procedure SA-115, *Termination of a Section 274b Agreement*, should be followed.
9. If a finding of “Adequate, But Needs Improvement” is made of a Region, the MRB (including the Director, NMSS) will consult with the Executive Director for Operations to determine what remedial steps need to be taken and will inform the Commission accordingly. Program probation, suspension, and termination are not applicable to Regional programs. NRC must implement immediate action to correct Regional program deficiencies that are similar to those that would warrant probation, suspension, or termination actions for an Agreement State.

B. OSP

1. For Agreement State MRBs where OSP is the coordinating office, the OSP lead secretary ensures that MRB meetings are announced using Form 549, “Public Meeting Announcement Data Input” and are open to the public.
2. The OSP senior project manager for IMPEP coordination is responsible for providing all relevant correspondence (i.e., draft report, State responses, proposed final report, meeting agenda) to the MRB, the IMPEP team, and other attendees, at least seven days in advance of meeting as described in Appendix C.
3. The OSP lead secretary in consultation with the IMPEP team leader, coordinates attendance at the MRB meeting with the representatives of the Agreement State under review, the IMPEP review team members, and an Agreement State Liaison including invitational travel for attendance at the meeting. Attendance by Agreement State and NRC Regional participants through a video conference is encouraged whenever possible. If the State or

Regional representative(s) will not be physically attending the meeting, arrangements for video conference or teleconference should be made by the OSP lead secretary.

4. The OSP senior project manager for IMPEP coordination is responsible for the minutes of MRB meetings which summarize major discussions, and do not attempt to provide verbatim accounts of the proceedings. Preparation and dissemination of meeting minutes are the responsibility of OSP, unless otherwise stated. Minutes of the preceding meeting are approved by the MRB in its next meeting or through mail. Following MRB approval, the minutes become a matter of the public record.

C. NMSS

1. For Regional MRBs where NMSS is the coordinating office, the NMSS IMPEP team leader ensures that MRB meetings are announced using Form 549, "Public Meeting Announcement Data Input" and are open to the public.
2. The NMSS IMPEP team leader is responsible for providing all relevant correspondence (i.e., draft report, Regional responses, proposed final report, meeting agenda) to the MRB, the IMPEP team, and other attendees, at least seven days in advance of meeting as described in Appendix C.
3. The NMSS IMPEP team leader coordinates attendance at the MRB meeting with the representatives of the Region under review, the IMPEP review team members, and an Agreement State Liaison. NMSS senior program analyst will contact OSP for invitational travel for Agreement State Liaison and Agreement State IMPEP team member attendance at the meeting. Attendance by Agreement State and NRC Regional participants through a video conference is encouraged, whenever possible. If the State or Regional representative(s) will not be physically attending the meeting, arrangements for video conference or teleconference should be made by NMSS.
4. The NMSS team leader is responsible for the minutes of MRB meetings which summarize major discussions, and does not attempt to provide verbatim accounts of the proceedings. Preparation and dissemination of meeting minutes are the responsibility of NMSS, unless otherwise stated. Minutes of the preceding meeting are approved by the MRB in its next meeting or through mail. Following MRB approval, the minutes become a matter of the public record.

VI. APPENDICES - Draft Samples

Appendix A - Memorandum from EDO to Commission on Heightened Oversight of an Agreement State

Appendix B - Commission Paper Requesting Approval Regarding the Status of Heightened Oversight for an Agreement State

Appendix C - Memorandum to the Management Review Board on the MRB meeting

VII. REFERENCES

1. NRC Management Directive 5.6, *Integrated Materials Performance Evaluation Program*, November 25, 1997.
2. OSP Procedure SA-113, *Placing an Agreement State on Probation*, February 5, 1997.
3. OSP Procedure SA-114, *Suspension of a Section 274b Agreement*, February 5, 1997.
4. OSP Procedure SA-115, *Termination of a Section 274b Agreement*, February 5, 1997.

Appendix A

DRAFT SAMPLE: Memorandum from EDO to Commission on Heightened Oversight of an Agreement State/Region

MEMORANDUM TO: Chairman [Name]
Commissioner [Name]
Commissioner [Name]

FROM: Executive Director for Operations

SUBJECT: HEIGHTENED OVERSIGHT STATUS FOR THE [NAME
AGREEMENT STATE PROGRAM/REGION]

The Integrated Materials Performance Evaluation Program (IMPEP) review of the [State/Region] program was conducted [date]. As a result of this review and results of the Management Review Board meeting held [date], the NRC found that [State's/Region's] regulatory program [is adequate but needs improvement and compatible/not compatible] Accordingly, the IMPEP team staff recommended and the MRB concurred that [State/Region] be place on heightened oversight during the next year.

[This section should contain facts concerning the State's/Region's program, and why heightened oversight is necessary. Reviews, Management Review Board Meetings, commitments from the State/Region and discussions and correspondence with the State/Region addressing the deficiencies should be documented.]

[This paragraph should be included only for Agreement States]

The review team and staff have considered whether emergency suspension of the [State] program is necessary to assure public health and safety and concluded that no immediate danger to public health and safety exists.

Heightened oversight will include requests for an [Agreement State/Region] program improvement plan, periodic [Agreement State/Region] progress reports, periodic [NRC/Agreement State or NRC/Regional] conference calls, and a follow-up review by the IMPEP team. In the event the [Agreement State/Region] does not correct the deficiencies that led to the heightened oversight within the one year time frame and extenuating circumstances do not exist, staff will prepare a Commission paper requesting approval for the appropriate actions to take regarding the [Agreement State/Region] program. The need for additional remedial actions by a Region will be monitored by NMSS (via the Operating Plan) on at least a quarterly basis with actions coordinated through the EDO.

Appendix B

DRAFT SAMPLE: Commission Paper Requesting Approval Regarding the Status of Heightened Oversight for an Agreement State

FOR: The Commissioners

FROM: Executive Director for Operations

SUBJECT: STAFF'S RECOMMENDATIONS REGARDING [STATE'S] AGREEMENT STATE PROGRAM

PURPOSE:

To present the results of the staff review of the [State] program during the heightened oversight period, the Management Review Board's (MRB) recommendation for [continued heightened oversight, probation, suspension, or termination] of the [State] Agreement.

SUMMARY:

A follow-up review of [State's] Agreement State program was conducted on [Date]. As a result of this review and results of the MRB meeting, the staff found that [State's] regulatory program had not implemented sufficient improvements to eliminate NRC concerns about the adequacy of the [State's] program. [Generally describe the new or ongoing deficiencies and status of State's efforts to address deficiencies.]

The MRB recommends [continued heightened oversight, probation, suspension, or termination] of the [State] Agreement.

DISCUSSION:

[This section should contain facts concerning the State's program and why the MRB action is desirable. Reviews, Management Review Board Meetings, follow-up reviews and discussions and correspondence with the State addressing the deficiencies should be documented.]

COORDINATION: This paper has been coordinated with the Office of the General Counsel, which has no legal objection.

RECOMMENDATION: That the Commission:

1. Approve the MRB recommendation for [continued heightened oversight, probation, suspension or termination] in accordance with procedures.

2. Notify the [State] of the Commission action.

Executive Director
for Operations

Attachments:
As stated

Appendix C

DRAFT SAMPLE: Memorandum to the Management Review Board on the MRB meeting

MEMORANDUM TO: Deputy Executive Director for
Regulatory Programs

Director, Office of State Programs

Director, Office of Nuclear Material Safety
and Safeguards

General Counsel

Director, Office for Analysis and Evaluation
of Operational Data

FROM: Deputy Director, Office of State Programs
[OR]
Director
Division of Industrial and Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

SUBJECT: INTEGRATED MATERIALS PERFORMANCE
EVALUATION PROGRAM (IMPEP) REVIEW OF [STATE/
REGION] RADIATION CONTROL PROGRAM

This memorandum transmits to the Management Review Board (MRB) a proposed final report (Attachment 1) documenting the IMPEP review of the [State/Region] Radiation Control Program. The review of the [State/Region] program was conducted by an interoffice team during the period [date]. The team issued a draft report to [State/Region] on [date], for factual comment. [State/Region] sent factual comments by [letter/memorandum] dated [dated] from [Name], (Attachment to proposed final report).

The review team found [State's/Region's] performance with respect to each of the performance indicators to be [satisfactory, satisfactory with recommendations for improvement or unsatisfactory.] [Accordingly, the team recommends that the MRB find the [State's] program to be [adequate to protect public health and safety, adequate but needs improvement, or inadequate to protect public health and safety] and [compatible or not compatible] with NRC's program.]

OR

[Accordingly, the team recommends that the MRB find the [Region's] program to be [adequate to protect public health and safety, adequate, but needs improvement, or inadequate to protect public health and safety].]

The MRB meeting to consider the [State/Region] report is scheduled for [day, date,] from [time] - [time] in [location]. In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for that meeting is attached (Attachment 2).

If you have any questions prior to the meeting, please contact me at [phone number] or IMPEP team leader at [phone number].

Attachments:

As stated

cc: [State/Region representative]
Agreement State Liaison to MRB

Agenda for Management Review Board Meeting
[day, date, time, location]

1. Convention. MRB Chair convenes meeting and introduces MRB members and Agreement State Liaison to MRB. [Chair, MRB]
2. New Business - Consideration of [State/Region] IMPEP Report.
 - A. Introduction of IMPEP Team Members. [IMPEP Team Leader]
 - B. Introduction of [State/Regional] representatives and other representatives participating through telephone bridge. [OSP senior project manager/NMSS senior program analyst]
 - C. Findings regarding [State/Region] Program. (IMPEP Team)
 - Status of Inspection Program
 - Technical Staffing/Training
 - Technical Quality of Licensing
 - Technical Quality of Inspections
 - Response to Incidents/Allegations[And the applicable following non-common performance indicators]
 - Legislation and Regulations
 - Sealed Source and Device Evaluation Program
 - Low-Level Radioactive Waste Disposal Program
 - Uranium Recovery Program
 - Regional Fuel Cycle Inspection Program
 - Site Decommissioning Management Plan
 - D. Questions. (MRB Members)
 - E. Comments from [State/Region]
 - F. MRB Consultation/Comments on Issuance of Report. [MRB Chair]
 - MRB decisions on IMPEP review findings.
 - Recommendation for next IMPEP review.
3. Old Business - Approval of MRB Minutes. [OSP senior project manager/NMSS senior program analyst]

4. Status of Upcoming Reviews. [OSP senior project manager/NMSS senior program analyst]

5. Adjournment. [MRB Chair]

Invitees: [MRB members, IMPEP review team, NRC staff attendees, State attendees,
Regional attendees]