



## Office of Nuclear Material Safety and Safeguards Procedure Approval

### ***The Management Review Board Interim State Agreements (SA) Procedure SA-106***

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Issue Date:

Review Date:

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**ML1919326B466**

#### **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>***

## I. INTRODUCTION

This document describes guidance for the implementation of the Management Review Board (MRB) as specified in the U.S. Nuclear Regulatory Commission (NRC) Management Directive (MD) 5.6, *Integrated Materials Performance Evaluation Program (IMPEP)*.

## II. OBJECTIVES

- A. To provide guidance on the structure, composition, and decision-making authority of the MRB.
- B. To provide guidance for conducting MRB meetings for periodic meetings, ~~for Integrated Materials Performance Evaluation Program (IMPEP)~~ reviews, and for the issuance of MRB findings on the performance of Agreement State and NRC radiation control programs.
- C. To provide guidance to the Organization of Agreement States (OAS) on the coordination and participation of the Agreement State MRB Representatives.
- D. To provide guidance on an appeal/appeals process for programs being placed on an enhanced oversight status (e.g., monitoring or heightened oversight).

## III. BACKGROUND

In accordance with ~~Management Directive (MD) 5.6, *Integrated Materials Performance Evaluation Program (IMPEP)*~~, the ~~U.S. Nuclear Regulatory Commission (NRC)~~ periodically evaluates Agreement State and NRC 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 MRB provides a senior-level review of the IMPEP team's findings and recommendations. The MRB chair has the final decision-making authority and issues the final NRC findings to the radiation control pProgram. These findings can include decisions regarding monitoring, heightened oversight, probation, suspension, or ~~the~~ revocation or termination of some or all aspects of the regulatory program's authority. These discussions can also include an Agreement State's decision to voluntarily return regulatory authority to the NRC (~~i.e.~~ g., sealed source and device review program).

## IV. ROLES AND RESPONSIBILITIES

- A. Executive Director for Operations (EDO):

Reviews and responds to an appeal that challenges an MRB Chair's decision to place or keep a Program on monitoring or heightened oversight.

B. Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration, and Human Capital Programs (DEDM):

1. Chairs the MRB; and
2. Designates an [NRC](#) member of the MRB to act as the Chair of the MRB in instances when attendance is not possible.

C. Management Review Board:

1. Provides a senior-level review of the results of the periodic meetings;
2. Provides a senior-level review of the IMPEP review team's findings and recommendations;
3. Deliberates on IMPEP performance indicator ratings, overall adequacy and compatibility findings, [and](#) the frequency and type of the next review;
4. Considers implementation or discontinuance of monitoring, heightened oversight, probation, ~~or~~ suspension, [or termination](#) of a radiation control program, as appropriate; and
5. Provides the MRB Chair with independent observations/insights on the adequacy and compatibility of [the](#) radiation control program being reviewed.

D. Chair, Management Review Board:

1. The MRB Chair convenes the MRB and [in](#) consultation with the MRB members, makes the overall assessment/determination of each Agreement State and NRC radiation control program, including:
  - a. Determining the adequacy of the NRC radiation control program; [and](#)
  - ~~b. Determining the adequacy and compatibility of the Agreement State radiation control programs; [and](#)~~
  - ~~c. [The MRB Chair's overall assessment of adequacy and compatibility may include consideration of the IMPEP review team's recommendations from the proposed final IMPEP report; any information or insights provided by the MRB members, representatives of the radiation control Program, NRC Regional or Agreement State staff attending the MRB, other NRC Offices, or members of the public. Such information could include concerns regarding the IMPEP team and/or review, program decline, inability to retain and/or recruit staff, or inadequate resources for ensuring adequate protection of public health and safety. The MRB Chair has the final decision-making](#)~~

~~authority on these matters.~~

2. Establishes precedents and significant ~~c~~Changes to the IMPEP process;
  3. Convenes the MRB to evaluate special reviews conducted to assess a specific program weakness, to consider the results of periodic meetings, or to discuss any other relevant issues, such as the results of conference calls with ~~Program's Programs that are~~ under monitoring or heightened oversight;
  4. Ensures ~~that~~ the MRB consists of a group of senior NRC managers and an Agreement State Representative in accordance with Section V.B. of this procedure; ~~or their designees, as follows:~~
    - ~~— Deputy Executive Director for Materials, Waste, Research, State, Tribal, and Compliance, Administration and Human Capital Programs, as Chair, or designee;~~
    - ~~— Director, Office of Nuclear Material Safety and Safeguards or designee;~~
    - ~~— General Counsel or designee;~~
    - ~~— Regional Administrator or designee. (The Regional Administrator (or designee) should not be from the same Region that the Agreement State under review is located), and an~~
    - ~~— Agreement State Representative (the Agreement State Representative should not be from the Agreement State under review).~~
  5. Signs outgoing correspondence resulting from MRB proceedings; and
  6. Directs the issuance of letters of support to Agreement States.
- E. General Counsel:
1. Participates on the MRB; and
  2. Designates an alternate Office of General Counsel (OGC) representative in instances when attendance is not possible.
  - 2-3. Ensures legal sufficiency and consistency with current laws, regulations, and agency policy.
- F. Director, Office of Nuclear Material Safety and Safeguards (NMSS) and Regional Administrators:
1. Participates on the MRB, as appropriate; and
  2. Designates an alternate representative in instances when attendance is not possible.

**G. OAS Executive Board and OAS Designee:**

1. OAS Executive Board assigns one of its members as the OAS Designee  
~~Designates an OAS board member (OAS Designee)~~ to be responsible for the coordination and participation of Agreement State Representatives;
2. OAS Designee a Approves Agreement State Representative recommendations once each volunteer has received their management's approval;
3. OAS Designee c Compiles a list of interested Agreement State staff who meet the criteria to serve as a representative on the MRB as listed in this procedure, and coordinates an individual's participation with the IMPEP project manager;
4. OAS Designee d Determines the timing of recruitment of Agreement State Representatives;
5. OAS Designee c Coordinates Agreement State Representative assignments to specific MRB meetings and backup/substitutions, as requested by the IMPEP project manager; and
6. OAS Designee a Addresses any issues or concerns raised by the Agreement State Representatives, as a result of participation on the MRB, with the IMPEP project manager or NRC management, as appropriate.

**H. Agreement State Representatives:**

1. Participates on the MRB;
2. Provides an objective perspective on any topic discussed by the MRB, based on experience gained from working for an Agreement State radiation control program; and
3. Possesses The Agreement State Representative should be at the ~~Exemplifies P~~ a program management level or higher position and/or is currently serving on the OAS Executive Board.

**I. State Agreement and Liaison Programs Branch Chief:**

1. Designates a point of contact for the OAS Designee;
2. Authorizes invitational travel for the Agreement State Representative's attendance at MRB meetings, if necessary; and
3. Works with the OAS Executive Board Designee to designate an alternate representative in instances when attendance is not possible.

**J. IMPEP Project Manager:**

1. Coordinates regularly scheduled MRB meetings, and special MRB meetings to inform the MRB of the results of IMPEP and periodic meetings, respectively as necessary/appropriate;
2. Coordinates participation of the MRB members, Agreement State Representatives, IMPEP review team members, and members of the public at MRB meetings;
3. Provides training on the MRB process to new MRB members, as necessary;
4. Sends requests for Agreement State Representatives to the OAS Executive Board Designee as MRB meetings are scheduled;
5. Maintains a list of the Agreement State Representatives and meetings attended;
6. Ensures that public meeting notices for MRB meetings are prepared, uploaded to Agencywide Document Access and Management System (ADAMS), and e-mailed to the ~~public meeting coordinator~~ Public Meeting Notice System (PMNS) coordinator at least 10 days prior to the meeting date;
7. Provides all relevant correspondence (i.e., proposed final reports, responses to draft reports, organization charts, briefing bullets, and meeting agendas) to the MRB, the review team, and other attendees at least 7 days in advance of the meeting;
8. Takes and issues minutes of MRB meetings or designates an alternate:
  - a. The minutes should summarize major discussions topics and any dissenting MRB member opinions and alternative recommendations, but ~~should be~~ not meant to be a verbatim account of the proceedings, and
  - b. Underlying causes for program performance issues, precedents established by the MRB, and good practices should be clearly documented in the minutes.
9. Documents ~~in a memorandum to members of~~ any deviations or requests for deviation from prior MRB direction by drafting a memorandum to MRB members. Examples of deviations that will be documented include changes to frequency of monitoring or heightened oversight conference calls and extensions of intervals between IMPEP reviews. Significant deviations, such as reducing the interval between IMPEP reviews due to a performance weakness identified outside of an IMPEP review or periodic meeting, will be presented to the MRB for concurrence during a special MRB meeting; and
10. Prepares the annual memorandum to the Commission featuring a report on the

status of Agreement States' and NRC's radiation control programs. The memorandum should include the following attachments: (1) Summary of Agreement States' Adequacy and Compatibility Statuses as of January of the year issued, (2) Summary of the NRC Programs' Adequacy Statuses, (3) Summary of IMPEP Report ~~Timeliness~~~~Issuance Against the 118-day Goal~~, and (4) Summary of Activities Related to Agreement States on additional oversight (e.g., Monitoring, ~~and~~ Heightened Oversight, etc).

## **V. GUIDANCE**

### **A. Meeting Schedule**

MRB meetings are to be conducted approximately ~~88-90-105~~ days from the last day of the IMPEP review ~~in order to achieve the timeliness goal of issuing the final report within 118 days of the review~~. Although these meetings are exempt from the "Commission's Policy Statement on ~~S~~taff ~~M~~meetings ~~O~~open to the ~~P~~ublic," the public is invited to observe each meeting. Each meeting will be published on the NRC's "Public Meeting Schedule" website. MRB meetings may take place beyond the ~~88th-105th~~ day in order to assemble a quorum, to accommodate Agreement State/NRC schedules, and/or to incorporate important supplemental material. Every effort should be made to meet the NRC's timeliness goal for issuing the final reports no later than 30 days after the MRB meeting~~in 118 days~~. Special MRB meetings to discuss the results of periodic meetings will be scheduled on an as-needed basis or at a frequency established by the MRB.

### **B. Membership**

1. The MRB membership generally consists of four senior NRC managers, or their designees, representing the DEDM; OGC; NMSS; ~~and~~ NRC Regional Administrators; and an OAS designee serving as the Agreement State Representative to the MRB.
2. The Regional Administrator representative on the MRB is a rotating position. Regional Administrators or their designees should be invited to participate on a particular MRB based on the following criteria:
  - a. For Agreement State Program reviews, the invited Regional Administrator participant generally should not be from the Region in which the Agreement State is geographically located.
  - b. For NRC Program reviews, the MRB Chair may invite an additional OAS representative to fill the Regional Administrator position on the MRB, as appropriate.
3. The OAS Executive Board Designee is responsible for appointing an Agreement State Representative to the MRB. The Agreement State Representative to the

MRB is a rotating position and may be selected from any Agreement State other ~~that~~ than the program under review.

4. MRB members will be consulted for their perspectives on IMPEP or periodic meeting issues, may request additional information from the Program under review during the meeting, and may be asked for their opinion on the review team's findings and recommendations. The MRB members may also be asked to provide insight in support of the MRB Chair's deliberation of the review team's findings and recommendations or if whether they agree with the review team's conclusions. The MRB members will be provided all relevant documentation in advance of the meeting.
5. The MRB may request additional ~~non-voting~~ members (either Agreement State or NRC) to participate on the MRB as subject matter experts to address concerns relative to a specific aspect of a program. For example, the MRB may request a representative from a State with authority to regulate low-level radioactive waste or uranium recovery to participate on the MRB if the proposed final report indicates that the program under review has a performance concern with respect to low-level radioactive waste or uranium recovery.

#### C. Meeting Protocols

1. ~~In order to~~ To convene an MRB meeting, a quorum must be present. A quorum is established if three MRB members are present. Designees count toward reaching a quorum. If a quorum is present at the scheduled start time of the proceedings, ~~however but~~, the Agreement State Representative is not present, the MRB will delay the start of the proceedings to make every effort to ensure that the designated Agreement State Representative or an alternate is in attendance.
2. The MRB Chair will consult with the other MRB members to reach a collaborative agreement on each indicator and, if necessary, to provide specific instruction to the IMPEP team leader. The MRB Chair makes the final determination on input from the MRB and has final decision-making authority, on the ratings for each of the IMPEP review performance indicators.
3. The MRB Chair will also consult with the other MRB members to reach a collaborative agreement on the overall program adequacy and compatibility and, if necessary, to provide specific instruction to the IMPEP team leader. The MRB Chair makes the final determination and has final decision-making authority, on the overall program adequacy and compatibility, based on input from the MRB.
4. In rare and exceptional 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 Program, within the NRC's timeliness goal of no later than 30 days after the MRB meeting ~~148 days~~, that addresses both completed review findings and the status of outstanding



issues. A report supplement will be issued when the outstanding ~~areas~~ issues are resolved ~~by the MRB~~.

5. The MRB may choose to go into an executive session during the public meeting at the discretion of the MRB Chair (e.g., to address potential allegations or security-related topics).

#### D. Findings and Recommendation

1. The MRB Chair's overall assessment of adequacy and compatibility may include consideration of the IMPEP review team's recommendations from the proposed final IMPEP report and any information or insights provided by the MRB members, representatives of the radiation control program, NRC Regional or Agreement State staff attending the MRB, other NRC offices, or members of the public. Such information could include concerns regarding the IMPEP team and/or review, program decline, inability to retain and/or recruit staff, or inadequate resources for ensuring adequate protection of public health and safety. The MRB Chair has the final decision-making authority on these matters.

1.2. If the MRB recommends that an Agreement State be placed on monitoring or heightened oversight, the guidance in NMSS procedure SA-122, *Heightened Oversight and Monitoring*, will be followed.

2.3. If the NRC program is found "adequate, but needs improvement," the DEDM and the ~~MSST~~ Director, ~~MSST~~, will consult with the Executive Director for Operations to determine what remedial steps need to be taken and will inform the Commission accordingly. ~~Probation, suspension, and termination are not applicable to NRC programs.~~ NRC must will implement immediate action to correct Program weaknesses that are similar to those that would warrant monitoring, heightened oversight, probation, suspension, or termination actions for an Agreement State. ~~However, p~~ Probation, suspension, and termination are not applicable to NRC programs.

3.4. If the MRB recommends that NRC initiate proceedings to place an Agreement State program on probation, NMSS procedure SA-113, *Placing an Agreement State Program on Probation*, will be followed.

4.5. If the MRB recommends that NRC initiate proceedings to suspend an Agreement State program, NMSS procedure SA-114, *Suspension of a Section 274b Agreement*, will be followed.

5.6. If the MRB recommends that NRC initiate proceedings to terminate an Agreement State program, NMSS procedure SA-115, *Termination of a Section 274b Agreement*, will be followed.

~~6-7.~~ The MRB Chair may also direct follow-up or special IMPEP reviews, or adjust the periodic meeting frequency, typically at the midpoint of the review period, to assess Agreement State or NRC progress on addressing program performance weaknesses. NMSS procedure SA-116, *Periodic Meetings Between IMPEP Reviews*, provides guidance for conducting periodic meetings. NMSS procedure SA-119, *Follow-up Integrated Materials Performance Evaluation Program (IMPEP) Reviews*, provides guidance for ~~conduction~~ conducting follow-up IMPEP Reviews.

#### E. Appeals Process

If a radiation control program disagrees with the MRB Chair's decision to continue or enter a period of monitoring or heightened oversight, the Program may appeal that decision to the EDO. Steps to appeal the MRB Chair's decision are:

1. Following the MRB Chair's decision, the Program has ~~seven-7~~ calendar days to notify the EDO in writing that it intends to appeal the MRB Chair's decision. ~~A sample template for the notice of appeal is available at <https://scp.nrc.gov/IMPEPTemplates.html> (currently under development).~~ ~~A sample template for the notice of appeal may be found under ADAMS Accession Number ML19xxxxAxxx (currently under development).~~
2. After filing the notice of appeal, the Program will have 14 calendar days to submit a formal appeal describing the basis for an appeal of the MRB Chair's decision.
3. The MRB Chair (or designated NRC staff) will have 14 calendar days to develop and submit a response to the formal appeal.
4. Following the receipt of both the formal appeal and staff response, the EDO will have 21 calendar days to evaluate the information and document a final decision on the appeal in a response letter to the Program.
5. The Program's formal appeal, the MRB Chair (or designated staff)'s response, and the EDO's final decision response letter will be documented in ADAMS, as a report supplement, and posted to the state communications portal website.

#### F. Letters of Support

In accordance with the August 26, 2004, Staff Requirements Memorandum-MO40817B (ADAMS Accession No. ML042390337), the NRC staff proposed a process for issuing "letters of support" to Agreement States. The process included options for issuing letters on a staff-to-staff basis, with or without request from affected Agreement States, and review and approval function for the MRB.

1. The MRB may direct NMSS to issue a letter of support, upon receipt of a request from an Agreement State Radiation Control Program Director or other Agreement

State manager. In such a case, the Agreement State ~~Program Radiation Control Program Director~~ may view that their Program is experiencing decline, is unable to replace staff, or needs believe that NRC's support is needed to help the Program ~~to~~ effectively compete for ~~Department~~ resources. An Agreement State ~~submitted request; will be considered~~ for a letter of support will be considered when provided that:

- a. ~~The A written~~ request is submitted to the Chair of the MRB (i.e., DEDM) in writing;
  - b. The ~~purpose of the reasons for~~ requesting ~~for~~ a letter of support is clearly described identified;
  - c. The request contains a detailed description of the Program performance issues, including an assessment of the performance indicator(s), that the Agreement State Radiation Control Program Director believes will result in less than a "satisfactory" rating if the IMPEP criteria were applied;
  - d. The request contains a "Staff Needs Analysis," performed as described in NMSS procedure SA-700, *Processing an Agreement*, when staffing issues are to be addressed; and;
  - e. The request includes a description of the efforts made by the Program to address the performance issues.
2. The MRB will consider the request at its next scheduled meeting, or sooner, if warranted. The Agreement State Radiation Control Program Director or other management, as appropriate, should be available to discuss the request with the MRB during the meeting.
  3. The MRB will determine if a letter of support (see template under ADAMS Accession Number ML17030A278) is warranted based on the following criteria:
    - a. The performance issues are significant enough to warrant either monitoring or heightened oversight as stated in NMSS procedure SA-122, *Heightened Oversight and Monitoring*;
    - b. The underlying root cause of performance issues needing improvement are budget and staffing issues that may need senior-level management attention; or
    - c. One or more performance indicators have the potential to result in an unsatisfactory rating if the IMPEP criteria were applied.

#### G. Special Recognitions

4. ~~If a radiation control program an Agreement State~~ has been found satisfactory for all performance indicators during two consecutive IMPEP reviews, the letter for transmitting the final IMPEP review may include language commending the ~~radiation control program Agreement State~~ for consistently meeting the standards of performance in all program areas or for the ~~radiation control program Agreement State's~~ continued support in protecting public health, safety, and security. A sample template is available at <https://scp.nrc.gov/IMPEPTemplates.html> (currently under development). ~~(see template under ADAMS aAccession nNumber ML17024A243).~~ If ~~a radiation control program an Agreement State~~ meets the above criteria, the MRB may exercise the option to extend an Agreement State's performance review period from 4 to 5 years (see NMSS procedure SA-100, *Implementation of the Integrated Materials Performance Evaluation Program (IMPEP)*). ~~If the NRC Program has been found satisfactory for all performance indicators during two consecutive IMPEP reviews, the MRB may exercise the option to extend the NRC's performance review period from 4 to 5 years.~~

2-1. The MRB may also issue a letter of support to congratulate an Agreement State during special occasions such as achieving a milestone or celebrating a particular anniversary of the Agreement signing. A sample template is available at <https://scp.nrc.gov/IMPEPTemplates.html> (currently under development). ~~(see template under ADAMS aAccession nNumber ML19yyyyyAyyy (currently being updated)).~~

#### H. Agreement State Representative Participation in the MRB:

1. The Agreement State Representative may attend ~~either~~ in person, ~~by via Skype,~~ or remotely using available technology via teleconference. Remote means of participation will be used whenever possible. On rare occasions, the Agreement State Representative may be requested to attend the meeting in person. For these occasions, NMSS will cover the expenses associated with the travel in accordance with Federal travel regulations.
2. ~~Since Because the MRB schedule is coordinated with the Program being reviewed, the date will be established as soon as possible after the IMPEP review. If In the rare occasion that the Agreement State Representative is unable it is not possible~~ to participate in the meeting because of a conflicts, the Agreement State Representative should contact the OAS Executive Board Designee to identify a replacement as soon as possible. The OAS Executive Board Designee will notify the IMPEP Project Manager of any changes.
3. The Agreement State Representative will receive the proposed final IMPEP report at least a week prior to the scheduled MRB, along with other supporting documents that are provided to the MRB Board members.

## VI. REFERENCES

1. Management Directives (MD) available at <https://scp.nrc.gov/procedures.html>  
<https://scp.nrc.gov>.
2. NMSS SA Procedures available at  
<https://scp.nrc.gov/procedures.html><https://scp.nrc.gov>.

## VII. ADAMS REFERENCE DOCUMENTS

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

No.	Date	Document Title/Description	Accession Number
1	5/18/00	STP Procedure SA-106	ML011230579
2	9/8/03	STP Procedure SA-106	ML040030003
3	10/5/05	STP Procedure SA-106	ML061290105
4	5/14/07	<a href="#">FSME</a> Procedure SA-106	ML071370629
5	9/8/03	STP Procedure SA-106	ML040030003
6	3/4/11	<a href="#">FSME</a> Procedure SA-106	ML110550453
7	<a href="#">12/xx/19</a>	NMSS Procedure SA-106, Revision	<a href="#">ML19326B466</a>
8	<a href="#">12/xx/19</a>	Redline/Strikeout Copy	<a href="#">ML19346G330</a>