

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

<b>MD 5.8      PROPOSED SECTION 274B AGREEMENTS      DT-13-14</b> <b>WITH STATES</b>	
<i>Volume 5</i>	Governmental Relations and Public Affairs
<i>Approved by:</i>	<del>John Lubinski</del> Mark A. Satorius, Director Office of <del>Nuclear Material Safety and Safeguards</del> Federal and State <del>Materials and Environmental Management – Programs</del>
<i>Date Approved:</i>	<del>June 25, 2013</del>
<i>Expiration Date:</i>	<del>June 25, 2018</del>
<i>Issuing Office:</i>	Office of <del>Nuclear Material Safety and Safeguards</del> Federal and State <del>Materials and Environmental Management</del>  Programs Division of Materials Safety, <del>Security, State, and Tribal Programs and State</del> <del>Agreements</del>
<i>Contact Name:</i>	Stephen Poy 301-415-7135

**EXECUTIVE SUMMARY**

~~Directive and Handbook 5.8 are being revised to include the formation of the Office of Federal and State Materials and Environmental Management Programs and its jurisdiction over 41e.(3) (discrete sources of radium-226 and accelerator produced radioactive materials) and 41e.(4) (discrete sources of radioactive material) as required by the Energy Policy Act of 2005. This revision also reflects the reorganization and subsequent changed responsibilities of the Office of Nuclear Material Safety and Safeguards.~~

~~Directive and Handbook 5.8 are being revised to update the language in the standard agreement made by the Commission as a result of the Vermont Agreement. This revision also reflects the reorganization and subsequent changed responsibilities of the Office of Nuclear Material Safety and Safeguards.~~

Formatted: Normal

**TABLE OF CONTENTS**

I. POLICY ..... 2

**II. OBJECTIVE..... 2**

**III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY..... 2**

A. Commission..... 2

B. Executive Director for Operations (EDO) ..... 2

C. Office of the General Counsel (OGC) ..... ~~32~~

D. Director, Office of ~~Nuclear Material Safety and Safeguards~~~~Federal and State Materials and Environmental Management Programs (NMSSFSME)~~..... 3

E. Director, Office of Nuclear Security and Incident Response (NSIR) ..... ~~43~~

F. Office Directors and Regional Administrators ..... ~~43~~

**IV. APPLICABILITY ..... ~~54~~**

**V. DIRECTIVE HANDBOOK ..... ~~54~~**

**VI. REFERENCES..... ~~54~~**

---

**I. POLICY**

It is the policy of the U.S. Nuclear Regulatory Commission to implement procedures for the establishment of new agreements with individual States pursuant to Section 274b<sub>2</sub> of the Atomic Energy Act of 1954, as amended, and the Energy Policy Act of 2005.

**II. OBJECTIVE**

Establish a system for an orderly transition in the discontinuance of certain regulatory authority by NRC with assumption thereof by the State through a standard agreement or amendment.

**III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**

**A. Commission**

1. Approves requests from a Governor to enter into an agreement under Section 274 of the Atomic Energy Act of 1954, as amended.
2. Approves policy matters related to NRC's Agreement State Program.

**B. Executive Director for Operations (EDO)**

Provides management direction and oversight for the activities described herein.

**C. Office of the General Counsel (OGC)**

1. Consults with the Director of the Office of Nuclear Material Safety and Safeguards~~Federal and State Materials and Environmental Management Programs (NMSSFSME)~~ concerning the legality of the proposed agreement or amendment.
2. Appoints principal working-level contacts for legal review of the proposed agreement or amendment.
3. Reviews, comments, and concurs, as appropriate, on the legality of the proposed agreement or amendment and the final Commission paper.

**D. Director, Office of Nuclear Material Safety and Safeguards~~Federal and State Materials and Environmental Management Programs (NMSSFSME)~~**

1. Coordinates the review and action on a State's request for a Section 274b\_ agreement or amendment to a 274b\_ agreement with the cognizant regional administrator and office directors, including the planning meetings with the State to discuss issues related to the request.
2. Identifies an NRC contact, prepares correspondence to the State, as appropriate, and provides a schedule for accomplishing staff work on the agreement request.
3. Reviews a State's request for a Section 274b\_ agreement or amendment to an agreement to determine the adequacy and compatibility of the State's program.
4. Prepares a Commission paper that includes the staff assessment of the State's request and a proposed *Federal Register* notice, publishing this information for public comment for 4 consecutive weeks according to the Atomic Energy Act.
5. Prepares a Commission paper for final approval of the State's request by the Commission. \_The paper is coordinated with the Office of the General Counsel (OGC) and affected offices and provides an analysis and response to public comments.
6. Prepares the approved agreement for the signature of the Chairman and the Governor. \_Arranges all post-signing coordination for the transfer of regulatory authority under the effective agreement.
7. Coordinates the electronic and paper file transfer of license files and other appropriate material for sealed source and devices registrations, ~~\_and~~ complex materials sites, and uranium recovery operating and decommissioning sites when the agreement is effective.

**E. Director, Office of Nuclear Security and Incident Response (NSIR)**

1. Consults with the Director of ~~NMSSFSME~~ concerning the proposed agreement or amendment.
2. Appoints principal working-level contacts for review of the proposed agreement or amendment.
3. Reviews and comments for concurrence, if appropriate, on the proposed agreement or amendment and the final Commission paper.

**F. Office Directors and Regional Administrators**

1. Consult with the Director of ~~NMSSFSME~~ concerning the proposed agreement or amendment.
2. Appoint principal working-level contacts for review of the proposed agreement or amendment.
3. Assist in the coordination of the review and action on State requests for Section 274b\_ agreements or amendments to 274b\_ agreements, including the planning of meetings with the State to discuss issues related to the request.
4. Review and comment for concurrence, as applicable, on the proposed agreement or amendment and the final Commission paper.
5. Before the agreement is signed, coordinate with the State on the licenses and contaminated or potentially contaminated sites and decommissioning records to be transferred when the agreement is effective.
6. Provide the opportunity for license reviewers and inspectors from the State seeking an agreement to review regional licensing casework in progress and observe NRC inspections at the facilities of licensees in that State.
7. When the agreement is effective, coordinate the transfer of licenses, license files, and other appropriate material, including meeting with representatives of the applicable State to describe and explain licenses and files that will be transferred to the State.
8. Ensure, to the extent practicable, that licensing and inspection backlogs do not exist for licensees in the State seeking an agreement.

#### IV. APPLICABILITY

The policy and guidance in this directive and handbook apply to all NRC employees who process a request for a Section 274b<sub>2</sub> agreement or amendment.

#### V. DIRECTIVE HANDBOOK

Handbook 5.8 contains an overview of the process, guidelines, and a copy of a standard agreement.

#### VI. REFERENCES

##### *Federal Register Documents*

Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States through Agreement (46 FR 7540, January 23, 1981, as amended by policy statements published at 46 FR 36969, July 16, 1981, and 48 FR 33376, July 21, 1983).

~~Statement of Principles and Policy for the Agreement State Program; Policy Statement on Adequacy and Compatibility of Agreement State Programs (62 FR 46517-46525), September 3, 1997; Agreement State Program Policy Statement; (82 FR 48535), October 18, 2017.~~

Evaluation of Agreement State Radiation Control Programs (60 FR 54734, October 25, 1995).

##### *Nuclear Regulatory Commission Documents*

Office of ~~Nuclear Material Safety and Safeguards~~~~Federal and State Materials and Environmental Management Programs~~ Procedures—

SA-700, "Processing an Agreement," available at <http://scp.nrc.nre-stp.ornl.gov/procedures/sa700.pdf>

United States Code

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Energy Policy Act of 2005, Pub. L. 109-58.