



**Office of Nuclear Materials Safety and Safeguards
Procedure Approval
Implementation of Management Directive 5.7
“Technical Assistance to Agreement States”**

SA-1001

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Daniel S. Collins, Director
*Division of Materials Safety, Security,
State, and Tribal Programs*

/RA/

Date: November 27, 2018

Paul Michalak, Branch Chief
*Agreement State Programs Branch
Division of Materials Safety, Security,
State, and Tribal Programs*

/RA/

Date: October 2, 2018

Lizette Roldán-Otero, Ph.D., *Procedure Contact*
*Agreement State Programs Branch
Division of Materials Safety, Security,
State, and Tribal Programs*

/RA/

Date: October 2, 2018

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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 the process for implementing the U.S. Nuclear Regulatory Commission (NRC) Management Directive (MD) 5.7, "Technical Assistance to Agreement States." This procedure replaces Handbook 5.7.

II. OBJECTIVE

- A. Provide guidance to NRC and Agreement State management and staff on the submission and review of requests for NRC technical assistance.
- B. Establish guidance to determine how the NRC will provide routine, special, or programmatic technical assistance to Agreement States.

III. BACKGROUND

Technical assistance to Agreement States may be provided through a formal technical assistance request (TAR). TARs should be submitted from an Agreement State to the Office of Nuclear Materials Safety and Safeguards (NMSS) Director of the Division of Materials, Safety, Security, State, and Tribal Programs (MSST); or the appropriate Regional Director of the Division of Nuclear Materials Safety (DNMS) using the form in Appendix A. This procedure should not be used to process TARs between NMSS and the NRC regional offices or between NMSS divisions.

IV. ROLES AND RESPONSIBILITIES

A. Director, NMSS

Implements the review of TARs from Agreement States through the Director, MSST.

B. Director, MSST

1. Coordinates with the appropriate NMSS division or NRC regional office to ensure the technical assistance is consistent with Commission policy as outlined in MD 5.7.
2. Coordinates any recommendations on the requests and provides the agency response to the Agreement State, as appropriate.
3. Ensures that appropriate NMSS division and NRC regional offices have an opportunity to provide input into the development of the response to the request.

C. Director, DNMS

1. Advises the Director of MSST and other affected offices of initial inquiries from Agreement States about technical assistance.



2. Evaluates the ability of their respective NRC regional office to respond to TARs from Agreement States and provides this information to NMSS.
 3. Participates in meetings with Agreement State officials as required to clarify the TAR and to ensure a timely and appropriate response to the request.
 4. Approves and provides the requested assistance in the timeframe agreed upon by the NRC regional office providing the assistance and the Agreement State.
 5. Obtains clarification either orally or in writing from the Agreement State when additional clarification of the request is necessary and prepares correspondence confirming the agreed-upon technical assistance (the lead NRC regional office responding to the TAR is most often the office reviewing the initial inquiry).
 6. Ensures that neither the NRC nor its contractors and/or consultants will act in a decision-making capacity on behalf of an Agreement State when providing technical assistance or responding to a request for technical assistance from an Agreement State.
- D. Director, NMSS Division of Decommissioning, Uranium Recovery, and Waste Programs; Directors, Regional Divisions of Nuclear Materials Safety; and Director, NMSS Division of Spent Fuel Management

Coordinates responses to TARs that fall under their area(s) of expertise with the Director, MSST. Examples include but are not limited to: 1) Financial assurance reviews, 2) Dose assessments for decommissioning, 3) Reviews of decommissioning documents, and 4) Uranium recovery reviews (e.g., licensing and inspections).

E. Chief, Agreement States Programs Branch

1. Reviews technical assistance requests to ensure that the requests contain:
 - (a) Sufficient information to enable the NRC to provide adequate technical response to the issues addressed in the Agreement State's TAR, such as an evaluation of the issue and, if appropriate, a proposed resolution.
 - (b) Evidence that the Agreement State had pursued alternative means of addressing the issue on its own, including attempting to obtain assistance from other agencies within the State or Commonwealth, other Agreement States, or independent organizations such as the Organization of Agreement States (OAS), the Conference of Radiation Control Program Directors (CRCPD), or procuring consultants or contractors.
2. Plans, schedules, and arranges meetings with the Agreement State to coordinate the assistance.



F. Chief, Medical Safety and Events Assessment Branch (MSEB)

Coordinates responses to TARs that fall under MSEB area(s) of expertise with the Director, MSST. In addition, evaluates the request and reviews the charter submitted from an Agreement State to use an NRC medical consultant to evaluate medical events in their State.

G. Chief, Source Management and Protection Branch (SMPB)

Coordinates responses to TARs that fall under SMPB area(s) of expertise with the Director, MSST.

V. REQUEST FOR TECHNICAL ASSISTANCE FROM AGREEMENT STATES

The NRC provides three types of technical assistance to Agreement States: routine, special, and programmatic. Provided below are descriptions and examples of the three types of technical assistance as well as the process to request the technical assistance.

A. Routine Technical Assistance

1. Routine technical assistance is provided as part of the NRC's daily interaction with Agreement States. This assistance may include, but is not limited to, requests for and the sharing of information regarding licensing, compliance, security, and enforcement activities.
2. Examples of routine technical assistance include requests for and the sharing of information on licensing, inspection, security, and enforcement activities. The information could include the clarification of NRC policy and guidance such as regulations, NUREG-series reports, regulatory guides, sealed source and device (SS&D) technical specifications, or licensing and inspection guidance. An Agreement State may make an inquiry regarding its interpretation and implementation of a specific regulation and whether the NRC would interpret the equivalent NRC regulation in a similar manner.
3. Routine technical assistance requests can include the NRC staff performing confirmatory reviews of portions of completed Agreement State technical assessments, on a case-by-case basis, when resources are available. For example, an Agreement State may have completed an SS&D review that identified atypical uses, designs, and/or applications. The Agreement State may share the completed review with the NRC and may ask if the NRC has any previous experience with the unusual specifications, or an Agreement State may ask the NRC to perform a confirmatory review of the Agreement State's results regarding the unusual specification.
4. Given the typically informal nature of routine technical assistance (i.e., a regular part of the NRC's day-to-day interaction with Agreement States), a formal request for routine technical assistance is not required. However, an Agreement State has the option to submit a formal request in either an e-mail or in a letter to the appropriate



NRC regional office. The request may also be sent to the Director of MSST using Appendix A.

B. Special Technical Assistance

1. Special technical assistance involves assistance from NRC staff or medical consultants above the routine level of interaction with Agreement States. These requests may require specific assignment of NRC staff or consultants for a specified period and/or for a specific job.
2. Special technical assistance may be requested when the Agreement State does not have the special technical expertise that is required to address a particular need, or when an Agreement State is experiencing a temporary constraint on resources. A request for special technical assistance could involve the NRC licensing and inspection staff conducting independent licensing and inspection activities for the Agreement State, for a specified period and/or for a specific job. Such assistance may also include the services of an NRC medical consultant.
3. Special technical assistance to an Agreement State will be provided on a case-by-case basis when the NRC believes that such assistance is necessary. The provision of such assistance will be based on the availability of NRC staff resources and any assistance may be cost-reimbursable, with the exception described in B.6. of this section.
4. Special technical assistance requests should be made directly to the Division Director of MSST. The Director of MSST will coordinate with the appropriate NMSS division or NRC regional office to designate and determine the level of assistance the NRC will provide for the special TAR.
5. An Agreement State should use the form in Appendix A, "Technical Assistance Request," to request NRC special technical expertise assistance. The form should be certified by an Agreement State manager (radiation control program director, agency head, or other equivalent manager) that the necessary resources or technical expertise is not available within the Agreement State. The Agreement State should state the specific assistance (specify period and/or specific job) requested, action requested, recommended actions and alternatives, and any background documentation. Evidence that the Agreement State made a reasonable effort to pursue alternative means of addressing the issue on its own should be provided. A reasonable effort can include attempting to obtain assistance from other agencies within the State, other Agreement States, or independent organizations, such as the OAS, the CRCPD, or procuring contractors or consultants.
6. An Agreement State may request the use of an NRC medical consultant to evaluate a medical event in their State. The request should be submitted to NMSS/MSST/MSEB by selecting the "Special" and "Medical" boxes on the form in Appendix A. The Agreement State will also develop a draft charter and submit it to the NRC for review. The charter will be reviewed to ensure that it is consistent with Inspection Manual Chapter (IMC) 1360, "Use of Physician and Scientific Consultants in the Medical Consultant Program." The request, including the charter, will be



evaluated by the MSEB Branch Chief in accordance with the policy section in IMC 1360. If the submission is found to be adequate, MSEB will send the request to the MSST Director for approval. If it is approved, MSEB will send the request to the medical consultant. The Agreement State will share the medical consultant final report with the NRC for NRC records and update the event in the NRC's Nuclear Material Events Database.

Although the NRC does not have statutory authority to fund Agreement State programs, the use of the medical consultant may be offered to the Agreement State at no additional cost, provided the Agreement State include evidence that it pursued reasonable effort to address the medical issue using alternative means. Evidence of a reasonable effort can include evaluating whether the State: (1) has available medical staff in other State agencies to address the issue, (2) can procure the assistance of medical staff outside its agency to address the issue using State funds, and (3) has evaluated the availability of medical staff from other agencies (e.g., OAS, CRCPD, or another Agreement State). The Agreement State's alternative means of addressing the issue on its own should be provided in the form of a written statement or affirmation as an attachment to the "Technical Assistance Form" in Appendix A and should include a statement confirming that the Agreement State does not have the funds to reimburse the NRC for use of the consultant.

C. Programmatic Technical Assistance

1. Programmatic technical assistance may be necessary if the need is identified through the Integrated Materials Performance Evaluation Program (IMPEP) process.¹ IMPEP reviews may identify programmatic issues in an Agreement State program that impact resources such as staffing, funding, and equipment, and, as a result, impact the Agreement State's ability to maintain a program that is adequate and compatible with NRC's materials program.
2. If programmatic issues are identified in an IMPEP review with regard to the adequacy of license reviews, inspection performance, or response to incidents and allegations, it may be necessary for an Agreement State to request technical assistance. Under such circumstances, an Agreement State may request NRC technical assistance through the process described above in Section B of this procedure, "Special Technical Assistance."
3. Direct technical assistance to an Agreement State in these circumstances will be conducted on a case-by-case basis when the NRC believes that assistance is necessary because of a lack of adequate resources and to ensure adequate protection of the public health and safety. The provisions of assistance will be based on the availability of NRC staff resources and any assistance may be cost-reimbursable.

¹ The IMPEP process, under which the NRC conducts a performance review of each NRC region and Agreement State on a periodic basis, is described in Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)." See also the Agreement State Program Policy Statement.



4. In providing programmatic technical assistance to Agreement States, the NRC will concentrate its resources on those areas that an Agreement State may not be able to address through its own expertise or contractual support for its program. This assistance may involve support in the licensing or inspection aspects of the Agreement State's regulatory program.
5. Programmatic technical assistance may also include an Agreement State request for specific training as a result of an IMPEP review. In this case, the assigned NMSS division will coordinate with the Regional State Agreement Officer for the scheduling of the training. The availability of staff resources will be considered in NRC's decision to provide such assistance.
6. Nothing in this section shall be construed as affecting the authority of any Agreement State. All regulatory decisions remain the responsibility of the Agreement State.

VI. APPENDICES

Appendix A – Technical Assistance Request Form

VII. REFERENCES

Nuclear Regulatory Commission Documents

Commission Policy Statements—

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 at 46 FR 36969, July 16, 1981, and 48 FR 33376, July 21, 1983).

Agreement State Program Policy Statement (82 FR 48535, October 18, 2017)

Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)."

Inspection Manual Chapter 1360, "Use of Physicians and Scientific Consultants in the Medical Consultant Program"

United States Code

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



VIII. 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 Management System are listed below.

No.	Date	Document Title/Description	Accession Number
1	03/28/13	MD and Handbook 5.7	ML13346A889

