

March 4, 2011

SUMMARY OF COMMENTS ON FSME PROCEDURE SA-112,  
*EMERGENCY SUSPENSION OF A 274b. AGREEMENT*

**I. Sent to the Agreement States for Comment: November 8, 2010 (FSME-10-093)**

**Comments/Dated:** Organization of Agreement States–12/09/10 (e-mail)  
Commonwealth of Virginia–11/15/10 (e-mail)

**Organization of Agreement States (OAS):**

Comment 1:

In Section I “Introduction” it states to “suspend an Agreement State Program”, we recommend it be changed to state “suspend a States 274b. Agreement with the NRC.”

Response:

We agree with the comment. The procedure was revised accordingly.

Comment 2:

In Section II “Objective” remove the period from 274j.(2).

Response:

We appreciate the comment, however the proper reference is 274j.(2). However, we noted that there was inconsistent use within the procedure and all other references will be changed to be consistent.

Comment 3:

In Section V.B.3.b change the “for” to “of”.

Response:

We agree with the comment. The procedure was revised accordingly.

Comment 4:

In Section V.B.3.c paragraph with “unforeseeable future”, replace with “indefinite period”

Response:

We agree with the comment. The procedure was revised accordingly.

Comment 5:

In Appendix B, Section I, update second paragraph for the new definition in 11.e.1-4.

Response:

We agree with the comment. The procedure was revised accordingly.

Comment 6:

In Appendix K:

- a. Change “NRC notification of the Agreement State of the activation NRC’s” to NRC notification to the Agreement State upon activation of NRC’s”
- b. Delete “activation of their State’s”.

Response:

We agree with the comments. The procedure was revised accordingly.

**Commonwealth of Virginia:**

Comment:

FSME 10-053 Enclosure 1

Part V Guidance B. 3 (b) I think they meant to say "list of licensees to notify" rather than a "list for licensees to notify"

Also Part V B. 3 (c) paragraph with struck through 6 replace "unforeseeable future" with "indefinite period"

Response:

We agree with the comments. The procedure was revised accordingly.

**II. Sent to the NRC Offices for Comment: November 10, 2010**

**Comments/Dated:** Region I – 11/26/10 (e-mail)  
Region IV - 12/07/10 (e-mail)  
DWMEP/FSME – 12/03/10 (e-mail)  
OGC – 11/23/10 (e-mail)  
FSME staff- 11/17/10 (e-mail)

**Region I:**

No comments

**Region IV:**

Comments 1-3:

The Region made several grammatical and editorial comments.

Response:

We agree with some of the edits. The procedure was revised accordingly.

Comment 4:

Section V.C.1 (page 4)

When the emergency situation is contained or eliminated, the EDO will lift the suspension by notifying the Governor of the State **in writing**, that the emergency suspension is no longer in effect (see Appendix G).

Response:

We agree with the comment. The procedure was revised accordingly.

**Office of Federal and State Materials and Environmental Programs/ Division of Waste Management and Environmental Protection (FSME/DWMEP):**

No comments.

**Office of the General Counsel (OGC):**

Comment 1:

INTRODUCTION, I recommend deleting the insert "is not able or" on the third line.

Response:

We do not agree with the comment. We feel that this phrase is necessary as it describes a situation where the State cannot, as opposed to will/has not, take(n) appropriate actions. No change will be made to the procedure.

Comment 2:

V. Guidance, A.3.d. states that a condition that could result in consideration of emergency suspension is the State being unable to execute its Continuity of Operations Plan (COOP) and/or Pandemic Response Plan. While NRC is required to have a COOP and Pandemic Response Plan, I am not aware that the Agreement States are required to have a COOP and/or Pandemic Response Plan under NRC regulations. Is this a requirement from another federal agency? If States are not required to have a COOP and/or Pandemic Response Plan, I would recommend taking this off the list in V. A.3. and deleting Appendix K.

Response:

We agree that the States are not required to have a COOP/Pandemic Response Plan under its 274b. Agreement with NRC. The procedure was revised to clarify that, while it is not required under the 274b. Agreement, NRC still needs to be kept informed of these occurrences in order to respond to other federal/State agencies and Congressional inquiries.

**FSME staff:**

Comment 1:

Section I. Introduction: The first sentence says "...describes the process used by the Commission to...". This should say "...describes the process used by the Nuclear Regulatory Commission (NRC) to ..." since the procedure speaks to more entities than just the Commission.

Response:

We agree with the comment. The procedure was revised accordingly.

Comment 2:

Section III. Background: Paragraph A. should state 274j.(2) instead of 274j(2). Should guidance be given on what is a "reasonable" amount of time? I realize that this is the language used in the Act but I am confused as to what really is reasonable

Response:

We agree with the comment; however, we feel that it is not within the scope of this procedure to specify a definite time period. This should be determined on a case-by-case basis dependent on the situation and surrounding circumstances that exist at the time of the emergency. No change was made to the procedure.

Comment 3:

Section IV. Roles and Responsibilities

- a. B. the last sentence should have parentheses around “e.g., to the Governor; and All Agreement and Non-Agreement States
- b. C. change public announcement to press release

Response:

We agree with the comments. The procedure was revised accordingly.

Comment 4:

Section V. Guidance

- a. A.1. change 274j(2) to 274j.(2)
- b. Should we give an environmental example here? We give several examples of doses to people but nothing with regards to contamination of the environment.
- c. B.1. change the last sentence to say “Such a request should include the specific nature of the emergency and it’s possible impacts.” If you point a State to the guidance listed in V.A then they will only use those examples.
- d. B.3.b. remove the words “if available”. In B.3. we say the NRC would need to collect the following information “at a minimum”. By using the words if available in B.3.b. we are contradicting B.3.
- e. B. Number the last two paragraphs to be paragraphs 4 and 5 and fix the alignment accordingly.
- f. B.5. “Emergency suspension should only be used for a short term.” Again what is a short term?
- g. C.2. change public announcement to press release
- h. D. Change the first sentence to read “Depending on a State’s ability to address the condition that precipitated the emergency suspension...”

Response:

We agree with the comments and edits (regarding Item f. see Response to Comment 2). The procedure was revised accordingly.

Comment 5:

Section VI. Appendices

- a. In this section Appendices is used but in IV.E. Appendixes is used. Change one of these to maintain consistency.
- b. Change public announcement to press release

Response:

We agree with the comments. The procedure was revised accordingly.

Comments 6-11:

These comments are all minor edits.

Response:

We agree with the edits. The procedure was revised accordingly.