

November 18, 2003

SUMMARY OF COMMENTS ON IMPEP Questionnaire

I. Sent to the Agreement States for Comment: June 12, 2003 (STP-03-044)

Comments Dated: Minnesota, June 16, 2003 (email)
North Carolina, June 24, 2003 (email)
Texas, July 3, 2003 (email), September 23, 2003 (email)
Illinois, July 24, 2003 (letter)
North Dakota, July 31, 2003 (markup)

Response to/Resolution of Comments:

Minnesota

Comment 1:

I like the revision because it eliminates some of the confusion by being more specific.

Response:

No response is necessary.

Comment 2:

The only item that would appear to be worthy of comment is the reciprocity question. There may be local policies that differ from NRC IMC 1220. States may have another plan that would be appropriate. The question might be what is your plan if different from IMC 1220. Then ask how well they have met the objective of that plan.

Response:

We appreciate the comment that reciprocity inspection frequencies in Agreement States may be different from NRC IMC 1220. The question as worded takes into account potential differences between NRC and State frequencies by asking for the number of reciprocity inspections according to NRC frequency and not the State's schedule. The questionnaire would identify for the IMPEP team a performance issue for further review if the State is not able to meet as a minimum NRC's reciprocity inspection schedule. No change to the questionnaire based on this comment.

North Carolina

Comment 1:

After looking at the entire document it has very few questions yet the document is called a questionnaire. There are really more statements requesting information. Should the document be called Pre IMPEP Response Form or something other than a questionnaire.

Response:

We appreciate the comment that the questionnaire document contains both questions and requests for information. The term "questionnaire" has been used to gather information in

preparation for the review and we believe it does not cause any ambiguity. No change to the questionnaire based on this comment.

Comment 2:

The first "Note" addition seems like common sense and may not be needed. I am not sure that it adds anything to an already lengthy document.

Response:

We appreciate the comment on the addition of the first note. This clarification was added in response to previous inquiries as to what response was appropriate if there had been no change in the response to a specific question since the last IMPEP questionnaire. No change to the questionnaire based on this comment.

Comment 3:

Under Status of Materials Inspection Program no. 10: I think a better, more simple way of stating this question would be: Over the course of the entire review period, has the state exceeded the frequencies specified in NRC Inspection Manual Chapter (IMC) 2800 for inspecting Priority 1, 2, or 3 or initial licensee inspections? If so, please submit a table or a computer printout that identifies those exceeded.

This has always been a difficult request for IMPEP reviewers and those being IMPEPed. In the past, most states thought that the statement was requesting only currently overdue inspections and did not address the entire review period. I am glad to see that you made changes to this request from the earlier revisions, but I think it could be better.

Response:

We appreciate the comment but disagree with the proposed simplification of question 10. If a program has not exceeded the frequencies for inspections, the response is none or not applicable. The proposed revision by North Carolina would not clarify that those inspections that are presently overdue and had not been inspected would need to be included in the information submitted. No change to the questionnaire based on this comment.

Comment 4:

It seems to me that security of licensing documents, cyber and hardcopy, needs to be captured under IMPEP. If this is a true performance evaluation of a program, how can the NRC report to Congress on the status of material programs if it does not evaluate the security of sensitive information that may impact homeland security? I know that I am being cursed by the other states by even suggesting this, but I do value IMPEP and am proud of what it has provided our state in improvements.

The rest of the document seems to be an improvement.

Response:

At the present time, Management Directive (MD) 5.6 does not include reviews of security of sensitive information that may impact homeland security. NRC's authority is to protect public health and safety and assure the common defense and security. At this time, inclusion of common defense and security areas are beyond the scope of MD 5.6 and this questionnaire. Given the current threat environment and the ongoing development of policies and procedures

in this area, staff will revisit this issue in the future. There will be no change to the questionnaire based on this comment.

Texas

Comment 1:

A.IV. Technical Quality of Licensing Actions - Describe how licensing data and statistics are maintained. If data is maintained electronically, please furnish print-out examples.

This is an important feature that prepares the on-site team for knowing what format the data will be presented. It gives the team an opportunity to review the data format in detail and become familiar with the level of detail. It may prompt some preliminary communication between the team and the program regarding data form. Issues might be resolved before the team descends on the program.

Response:

We appreciate the concern to facilitate the IMPEP team review, but we do not support additional burden on the State or Region unless necessary. The questionnaire is considered a tool to assist the IMPEP team's review. In the 1993 reengineering of the Agreement State program review process through IMPEP, the States requested that NRC reduce the questionnaire to limit the impact on the State. IMPEP's team approach tailored to the size of the program reviewed is in part to reduce the impact on the State and to review on-site many documents and procedures previously requested prior to reviews. We believe that the information that would be gathered through this new proposed question can easily be obtained during the review week and the dialogue on data is part of the on-site review for this indicator. Note, the questionnaire does request that licensing data and statistics be available to the reviewers for the on-site review. We are not aware of any specific issues identified from past IMPEP experience to warrant the additional information submittal. There will be no change to the questionnaire based on this comment.

Comment 2:

A.IV. Technical Quality of Licensing Actions - In the response to this questionnaire, please provide copies (electronic would be preferred) of all licensing guidance documents, including standard license conditions.

This feature allows the team member responsible for the Technical Quality of Licensing Actions additional time to review the guidance before conducting the more strenuous work assigned on-site. Questions could also be developed in advance and some answers given via a phone call to the program prior to the on-site phase.

Response:

As noted in response to Texas Comment 1, this proposed question also would increase the burden on the State or Region. STP prior to the IMPEP process, routinely gathered copies of each Agreement State's procedures, but rarely used them. This information collection item was identified through experience both during IMPEP and prior to the IMPEP reviews as one to delete from the questionnaire. Note, the questionnaire does request that licensing guidance documents be available to the reviewer for the on-site review, which should meet the needs of the on-site reviewers. There will be no change to the questionnaire based on this comment.

Comment 3:

A.IV. Technical Quality of Licensing Actions - From your program's experience, define backlog. Does your licensing program currently have a backlog of licensing actions?

This provides an opportunity for the team to "get a read" on the licensing philosophy for the program. As IMPEP is a programmatic approach, this telling item might lead to a more true, reality-based, performance-based evaluation of the licensing paradigm. Plus, the team will be able to address license action priorities based on the existence of a backlog.

Response:

During the development of the IMPEP in 1993, staff originally proposed an indicator "Status of Licensing" which addressed the overall performance of a State or region in terms of timeliness of completed licensing actions. The Agreement States and to a lesser degree, the Regions recommended that this indicator be deleted, since they believed it had only a tenuous link to public health and safety. The Agreement States at that time believed that such an indicator could result in management pressure to meet timeliness goals with resulting dilution of the technical quality of licensing actions. The indicator was deleted and is partially addressed through IMPEP reviews by assessing the time required to process license renewals when evaluating technical quality of licensing actions. Based on the earlier decision to delete this indicator from MD 5.6, this comment is outside the scope of the questionnaire. There will be no change to the questionnaire based on this comment.

Comment 4:

A.IV. Technical Quality of Licensing Actions - Has your agency initiated any new programs (e.g., general license program or special licensing program) associated with radioactive material licensing?

This issue was stressed during the last IMPEP training at headquarters. As IMPEP is a two-way street, if you will, it is important to obtain a thorough understanding of new regulatory initiatives that might become a national trend, or of specific help to another program. Plus, new initiatives can sometimes drain resources from other agreement-based projects and can explain some lapses if noted.

Response:

We agree with this comment, but believe it should be an area addressed by the State or Region for the entire materials program not solely in connection with the licensing program. Question 26 will be revised as follows:

26. Provide a brief description of your program's strengths and weaknesses. These strengths and weaknesses should be supported by examples of successes, new initiatives, problems or difficulties which occurred during this review period.

Comment 5:

B. II. Sealed Source and Device Program - change question 31 to read: Prepare a table listing new and amended (including transfers to inactive status) SS&D registrations of sealed sources and devices issued during the review period. The table headings should be:...

NUREG 1556, Vol. 3 does not use the term "revised", instead we should use the accepted term of "amended". Plus we need to add the additional wording to make certain that we capture those SS&D product evaluations transferred to inactive status.

Response:

We agree with the comment and the questionnaire will be revised.

Comment 6:

B. II. Sealed Source and Device Program - add the following to question 32: Provide copies of all sealed source and device evaluation guidance prepared by the program. For reasons similar to those noted above for Licensing guidance, this gives a opportunity for some of the work to be done in advance of the on-site portion.

Response:

See the response to Texas Comment 2. There will be no change to the questionnaire based on this comment.

Comment 7:

Some time, not a lot, but around 0.5 to 1.5 hours, can be spent going through the Questionnaire response lists of SS&Ds (B.II.31.) and Major Licensing Actions (section A.IV.18. and 21.) to sift out the non-AEA material casework. As you are painfully aware, during IMPEPs we are supposed to look at only AEA material. As my comment is applicable to other areas where casework is requested, it would be handy to revise the Questionnaire to ask for responses of casework involving AEA material only.

Response:

We appreciate the comment, however we believe the impact on trained and qualified reviewers is minimum to identify non-AEA material casework. There will be no change to the questionnaire based on this comment.

Illinois

Comment 1:

Overall, the Division agrees with the IMPEP questionnaire revisions. Several redundant information submittals are now eliminated and other improvements are noted. In regards to question 20, we recommend that the expectations of Agreement States regarding security policies and procedures be clearly identified.

Response:

As noted in the response to North Carolina's Comment 4, MD 5.6 does not include reviews of security of sensitive information that may impact homeland security including security policies and procedures. At this time, inclusion of common defense and security areas are beyond the scope of MD 5.6 and this questionnaire. Given the current threat environment and the ongoing development of policies and procedures in this area, staff will revisit this issue in the future. There will be no change to the questionnaire based on this comment.

Comment 2:

Also, including a consensus metric of what is considered a “licensing backlog” in section IV., Technical Quality of Licensing, would be helpful for Agreement States and NRC Regions.

Response:

See the response to Texas Comment 3. There will be no change to the questionnaire based on this comment.

North Dakota

Comment 1:

These are good changes overall. One additional suggestion is to temporarily (perhaps 4 year or 8 year cycle) add review elements not already included such as orphan sources, timeliness of licensing, emergency response coordination on exercises, etc., to help improve programs overall. The focus of the IMPEP has help programs improve in the areas IMPEP reviews. But perhaps as with Pavlov’s dog, we do or focus on what we are graded on. The additional elements would not be items of adequacy or compatibility simply for review and consideration and perhaps inclusion in good practices.

Response:

Changes to the questionnaire are based on experience and the performance indicators as listed in MD 5.6. Changes to the questionnaire necessitate OMB approval which occurs every three years. We believe that there are mechanisms in place with the revisions that occur to MD 5.6 (presently under review) and the OMB clearance process to add elements as identified as performance issues. Additional items outside of the IMPEP reviews can be discussed during the periodic meeting and routine interactions between Agreement States and the Regions. There will be no change in the questionnaire at this time based on this comment.

Comment 2:

Question 21. Prompt response to licensees is critical to Agency control and credibility. One year should be reduced to 90 and/or 180 days.

Response:

We appreciate the comment and many Agreement States have response times less than one year. Although we do not evaluate the licensing backlog for the States or Regions, the intent of the question is to identify any significant delays identified which can be indicator of performance, such as lack of training for a specific licensing type or loss of staff. There will be no change to the questionnaire based on this comment.

Georgia

Comment:

We appreciate the opportunity to review the suggested changes to the IMPEP Questionnaire. We believe the suggested changes will result in an improved questionnaire. And we have no suggestions for further changes.

Response:

No response is necessary.

II. Sent to the NRC Offices for Comment: June 12, 2003

Comments Dated: Region I, July 2, 2003 (email)
OCG, July 7, 2003 (email)
NMSS, July 15, 2003 (email)
Region IV, July 16, 2003 (email)
Region III, July 18, 2003 (email)
Region II, July 31, 2003 (memorandum)

Region I

Comment 1:

Region I has reviewed the revisions to the IMPEP questionnaire attached to Paul Lohaus' June 12, 2003 memorandum. The Region finds the revised questionnaire significantly improved over the current version.

Response:

No response is necessary.

Comment 2:

In addition to the proposed revisions, Region I suggests that new question No. 16 be expanded to include a description of the program's laboratory capabilities.

Response:

We agree with this comment and will revise the questionnaire accordingly.

OGC

Comment 1:

Page 2, Question 7. Change the last sentence of that question to "If so, please describe the procedures used to avoid a conflict of interest."

Response:

We agree with this comment and will revise the questionnaire accordingly.

NMSS

Comment 1:

I have reviewed the revised questionnaire attached to Paul Lohaus' memo to Marty Virgilio dated June 12. For IMNS and NMSS, I concur with the changes you made. Good job.

Response:

No response is necessary.

Region IV

Comment 1:

RIV reviewed the changes in the questionnaire submitted with your memo dated June 12. We believe the changes are beneficial and have no other recommendations. Please consider this as the response from Region IV.

Response:

No response is necessary.

Region III

Comment 1:

The questionnaire revisions decidedly improved and streamlined the document. We have just a few comments which are included.

The questionnaire out for comment is quite different than the version which Region III completed prior to the March 2003 IMPEP review. The non-common indicators used in the Region III questionnaire were: Fuel Cycle, SDMP Program, and Decommissioning. We were under the impression that a common questionnaire was used for all IMPEP reviews of Agreement States and Regions.

Response:

~~The existing OMB approved questionnaire did not have any questions for fuel cycle, SDMP program or decommissioning since these areas are solely the jurisdiction of NRC and implemented through NRC's Regional Programs. OMB approval is not required for internal information burden requests. However, we support your comment that a common questionnaire, which has been reviewed by all involved stakeholders in all areas would be appropriate. Your comment has been forwarded and discussed with NMSS regarding the development of both procedures and standard questions for the Regions for these non-common performance indicators. There will be no change to the questionnaire at this time based on this comment.~~

The NRC review of NRC's regional programs for radioactive materials does not require an OMB clearance or approval for internal information gathering between various NRC offices. The existing OMB approved questionnaire did not have any questions for fuel cycle, SDMP program or decommissioning since these areas are solely the jurisdiction of NRC and implemented through NRC's Regional Programs. However, we support your comment that a common questionnaire, which has been reviewed by all involved stakeholders in all areas would be appropriate, even in areas not covered by the OMB clearance. Your comment has been forwarded and discussed with NMSS regarding the development of both procedures and standard questions for the Regions for these non-common performance indicators. There will be no change to the questionnaire at this time based on this comment.

Comment 2:

We are aware that the Office of Management and Budget burden information relates to non-agency data collection, however, the OMB burden estimate for a large program, similar to an NRC regional office, seems too low. The OMB estimate is 53 hours. Region III spent well

over 100 hours in completion of the questionnaire prior to the 2003 IMPEP review. Much of the time spent in questionnaire preparation related to the non-common indicators noted above.

Response:

See the response to Region III Comment 3. The effort put in the questionnaire was material outside the scope of the OMB clearance. There will be no change to the questionnaire based on this comment.

Comment 3:

Question 7 addresses Agreement State oversight boards. We suggest that the description be expanded to "an oversight board or committee which provides direction to the program and is composed of licensees..."

Response:

We agree with this comment and will revise the questionnaire accordingly.

Region II

Comment 1:

Questions 9 and 10 refer to license "Priority 1, 2, and 3" inspections. We have observed that some States use different license priorities than identified in Manual Chapter 2800. For example, a Priority 1 license may be assigned a 6 month inspection frequency, a Priority 2 assigned a 1 year frequency, and a Priority 3 assigned a 2 year frequency. Therefore, we suggest that the questionnaire specify that the Priorities are as identified in MC 2800, or clearly identify the inspection frequency as 1, 2, and 3 years.

Response

We agree with this comment and will revise the questionnaire accordingly.

Comment 2:

Question 17 requests numbers of "radioactive material licenses." We suggest that the question be modified to request numbers of "specific radioactive material licenses," as some States also track numbers of general licenses.

Thanks again for the opportunity to comment. We believe this update is more efficient and addresses the information needed for IMPEP reviews.

Response:

We agree with this comment and will revise the questionnaire accordingly.