

## Agreement State Comment Resolution

### Draft Phase 2 Revision to NRC Inspection Manual Chapter 2800

Comment No.	Source	Location	Comment	Added	Remarks
1.	Wisconsin	IMC 2800	The draft revision to IMC 2800 includes significant changes and the Web-Based Licensing System (WBL) may not currently be able to accommodate these changes. For states that use WBL, will the Nuclear Regulatory Commission submit change requests to incorporate these changes or will the Agreement States each be responsible for submitting change requests?	N	Yes, the NRC is working with the WBL software developers to ensure that any necessary changes resulting from the proposed changes to IMC 2800 will be incorporated or reflected in WBL as well. Agreement States will not need to submit additional change requests.
2.	Wisconsin	IMC 2800	“Priority R” is referenced in multiple instances but this term is used inconsistently throughout the document. It references both an inspection type and an inspection priority. It may be helpful to provide clarity on how to use and assign “Priority R”; should it be based on program code, inspection location difficulty, etc.?	Y	The document has been revised to more consistently use “Priority 5R” as only an inspection priority and “remote inspection” as an inspection option. The assignment of Priority 5R is addressed in other NRC guidance.
3.	Wisconsin	IMC 2800	Clarification is needed on if comprehensive inspections performed at a reduce inspection interval are considered “routine” or “non-routine” and over what window of time can other changes in inspection interval occur such that the combined effort of limited scope inspections are comprehensive. As drafted the eligibility window and next inspection interval for these could vary greatly among regions and Agreement States.	N	Inspections conducted at a reduced interval are still part of the routine inspection program. Section 06.02(b) states that the inspection scheduling window is still applicable to the next inspection date based on the licensee’s normal inspection priority. The guidance in this document will provide consistency among the NRC regions; however, Agreement States may set their own inspection scheduling windows up to those permitted in IMC 2800.
4.	Wisconsin	IMC 2800	Wisconsin also noticed inconsistent use of formatting regarding section numbering and indentation, particularly under 05.01 “General Inspection Process”.	Y	We appreciate the comment. Formatting has been reviewed to comport with Inspection Manual Chapter template guidance and consistency.
5.	Wisconsin	Section 03.10	Wisconsin supports the concept of “Remote Contacts” but thinks this term should broadly apply to all inspection types and not just “Priority R” inspections. It is conceivable to have remote contacts as an element of other inspections.	Y	The document has been revised to more consistently use “Priority 5R” as only an inspection priority and “remote inspection” as an inspection option.
6.	Wisconsin	Section 03.13	Wisconsin supports moving field inspections under the “routine” inspection category.	N	The working group appreciates the support through this comment.

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7.	Wisconsin	Section 04.05(f)	The pathway for Supervisors of Regional Materials Inspection Programs to propose changes to the inspection program is unclear. Wisconsin supports the existence of a pathway for programmatic changes in NRC starting at the ground level but it is unclear who supervisors propose changes to, how the proposed changes are reviewed, and how they are tracked within the process. It is understood that Agreement States will have their own management structure to do the equivalent.	Y	The working group added a new Section 2800-13 to describe the process for submitting feedback and recommendations on the materials inspection program.
8.	OAS	Section 2800-05	The third paragraph describes when an inspection can officially be considered to be performed. This description is potentially contradictory to the definition of a non-routine inspection, specifically item 2) of the definition.	Y	The document was revised to add a definition for "limited scope inspections" and this statement regarding when an inspection can be considered to be performed was deleted to avoid confusion. The subsequent paragraph on when an inspection is not considered to be performed was also revised to provide additional clarification.
9.	Wisconsin	Section 05.01	The "Safety Culture Awareness" section provides little detail on which specific elements of safety culture should be reviewed on inspections. If the expectation is that a licensee's safety culture is inspected routinely, more detail needs to be provided in this section. It could also be helpful to reference the NRC's Safety Culture Policy Statement or inspection procedures.	Y	This paragraph was revised to provide clarification that safety culture is not required by regulation. There is no regulatory basis that a licensee's safety culture be inspected. A link to the NRC Safety Culture information was added to the paragraph as well.
10.	Wisconsin	Section 05.01(b)	The terms "Previous Items" and "open issues" are used but are not defined. Are these synonymous? Do they reference open violations or previous violations? Consistent language should be used when referencing previous inspection issues. The term "open issues" is also used on page 11 of the document.	Y	The working group appreciates this comment in the spirit of consistency. After additional review, the working group identified interchangeable use of the terms "previous items", "open issues", and "open items". For consistency, the working group aligned on the term "open item" and has consistently applied it throughout the document. The document was also revised to add a definition of "open items".

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11.	Wisconsin	Section 05.01(d)	The information provided beyond the first paragraph is not instructive and unnecessary given that the inspector should ultimately consult with their supervisor on the matter. Wisconsin recommends shortening this section to the following: “Requests from Licensees for Assistance. On occasion, licensees ask inspectors for help resolving issues. Inspectors are prohibited from recommending the services of specific individuals or organizations for a project under NRC regulatory jurisdiction. Providing such a recommendation violates 5 CFR 2635.702, which prohibits Federal employees from using public office for endorsement of any product, service, or enterprise. However, the agency also has an obligation to provide assistance where possible in helping individual licensees solve problems that affect public health and safety; the inspector should consult with their supervisor on the matter.”	N	The working group believes that the level of detail is necessary to provide guidance to new inspectors and supervisors.
12.	Wisconsin	Section 05.02(a)(5)	Clarification on the 18-month initial inspection is needed. Is there an inspection window on the 18 months? Should it be 18 months +/- 6 months?	Y	The document was revised to clarify that an initial inspection is due within 12 months with a permissible extension up to 18 months.
13.	Wisconsin	Section 05.02(b)(4)	If this reminder from the licensee is intended to initiate voluntary license termination, it should be stated in this manual.	N	Voluntary license termination is one of several possible options. The intent of this sentence is to use the onsite inspection as a reminder to the licensee of this referenced requirements and discuss possible options depending on the licensee’s future plans.
14.	Wisconsin	Section 05.02(b)(6)	Similar to the comment above, provide clarification on if there are inspection windows for when initial inspections are extended beyond the initial 12-month timeframe. Wisconsin also disagrees with the concept of multiple initial inspections if the licensee still has not received licensed material.	Y	The document was revised to clarify that an initial inspection is due within 12 months with a permissible extension up to 18 months.  The working group believes the requirement to perform an initial onsite inspection is necessary from a “trust but verify” standpoint and is not a deviation from current guidance.

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15.	Wisconsin	Section 05.03(a)(1)	Wisconsin suggests that this information be represented in a table. For example, 1-2 locations = minimum of 1 site; 3-9 locations = minimum of 2 sites. The table should only have a percentage for the very last (highest) category.	Y	This comment was addressed in part by adding a table. The working group believes that the required number of locations can be easily calculated based on the information presented in the table.
16.	Wisconsin	Section 05.03(a)(1)	It would be beneficial to have a better description of when a remote contact is appropriate.	Y	The working group believes that the revision changing “remote contact” to “remote inspection” (and other associated changes throughout the document) provides maximum flexibility and is responsive to this comment.
17.	Wisconsin	Section 05.03(b)(4)	Wisconsin thinks it is unnecessary to require documentation/justification for why temporary jobsites were not inspected in every case. The emphasis should be that a comprehensive inspection includes review of licensed activities at temporary jobsites. If the inspector makes a reasonable attempt at 5.03 b. 1. through 3., additional documentation would be unnecessary. However, it would be important to document those instances that a temporary jobsite inspections was not possible and other action is needed, e.g. work is done outside of inspector’s jurisdiction and coordination outlined in 2800-10 and 2800-11 should be pursued, temporary jobsite work is no longer performed and the licensee should modify their authorization, access was not granted to the inspector due restrictions imposed by licensee’s client and specialized training or PPE must be acquired for future attempts, etc.	N	The working group believes the documentation is important and believes that the latter portion of your comments aligns with the intent of the documentation. It is intended to be a quick note to indicate whether any additional action (e.g., inspection efforts, license amendments, etc.) may be needed. It can also serve as a note to the next inspector to prioritize a temporary job site inspection and perhaps even to plan and/or announce the inspection to ensure that activities at a temporary job site can be inspected. The overall goal is to ensure that the most risk-significant activities authorized by the license are being inspected at a reasonable frequency in the spirit of a performance-based, risk-informed inspection program.
18.	OAS	Section 06.02(a)(3)	The Board recommends that “management paragraph” be defined.	Y	The document was revised to delete the term “management paragraph”.

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19.	Wisconsin	Section 07.01(a)	In the last paragraph, the reference to IP 87103 is redundant with the first paragraph in the same section and the rest of the information is not instructive beyond other sections that discuss exit meetings and the inspection procedures. Wisconsin recommends that this paragraph be deleted.	N	There is explicit additional guidance on the conduct of exit meetings for reactive inspections in IP 87103 that differs from the general guidance for inspection exit meetings found in Section 05.01 of this document; therefore, the working group believes it is important to retain the last paragraph.
20.	Wisconsin	Section 07.03	There needs to be more flexibility to extend the followup inspection beyond 12 months if the issue that prompted escalated enforcement is a 12 month requirement or otherwise infrequent occurrence. Wisconsin suggests either a 12 month +/- 6 month window, within 18 months of the action letter, or adding flexibility such that followup is decided on a case-by-case basis and require documenting the rationale.	N	The working group recognized the need for additional flexibility in the scheduling of escalated enforcement followup inspections in the development of the Phase 2 revision and built flexibility into the scheduling by revising the statement to use the word "should" instead of "shall". The working group believes the scheduling of escalated enforcement followup inspections should be at the discretion of the regulator based on the significance of the finding and the ease of ensuring that the licensee took prompt and appropriate corrective action relative to the finding.
21.	Wisconsin	Section 07.04	Wisconsin supports the idea of a risk-informed approach and also supports all licensees as being eligible for inspection. Wisconsin also supports using a metric to ensure some level of reciprocity accountability but believes it should be higher than 5%.	Y	The working group added additional flexibility by adding a statement that regional offices may develop their own goals and methods similar to the allowances afforded to Agreement States in NMSS Procedure SA-101, "Reviewing the Common Performance Indicator, Status of Materials Inspection Program."
22.	Wisconsin	Section 07.05	A defined inspection window for significantly expanded programs should be established. Is it similar to the inspection window for initial inspections or will it be determined using a risk informed methodology?	N	The working group believes that this section as currently written provides the regulator maximum discretionary flexibility to coordinate with the licensing program to establish an appropriate inspection date commensurate with the change(s) being made to the license.

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23.	Wisconsin	Section 08.01	It should be clearly stated that a “Pre-licensing Visit” is not an inspection.	Y	<p>Sentences were added in both Section 08.01 and 08.02 to clearly indicate that these activities are not inspections.</p> <p>The working group also noted that the definition of “Inspection” in Section 03.02 also states that these visits do not meet the definition of an inspection.</p>
24.	OAS	Section 09.02	This section describes how and when narrative inspection reports are required, including all team inspections (more than 3 people), potential escalated enforcement actions, and reactive inspections for events. This could potentially be a compatibility issue with states that use checklists and other standard formats as the primary method for documenting inspection results.	N	This section establishes guidance to NRC management and staff on the documentation of inspections and is not a matter of compatibility for Agreement States. Documenting inspections in general is a matter of adequacy for Agreement States; however, Agreement States have the ultimate flexibility in how they choose to document their inspections. No change was made to the document as a result of this comment.
25.	Wisconsin	Section 2800-10 and 2800-11	Wisconsin supports the concepts of coordination among regional offices, Agreement States, and other agencies. However, clarification is needed on the priority assigned to information received/shared among Agreement States and the NRC. Is this information treated similarly to allegations? Are agencies required to follow up on the information shared or are these communications allowed to be dismissed?	N	The working group believes that such specificity is not necessary. The working group believes that this section as currently written provides flexibility for coordination among co-regulators to optimize the use of resources across the National Materials Program. This section is an optional tool that can be used in the inspection program and is completely voluntary. Information and coordination efforts will not be tracked like allegation information, nor will they be reviewed under the Integrated Materials Performance Evaluation Program (IMPEP).

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26.	Wisconsin	Section 2800-12	Do the Memoranda of Understanding (MOUs) that the NRC has with other Federal agencies extend to Agreement States? It is understood that this document only pertains to NRC, but the question is regarding if Agreement States should establish similar MOUs.	N	The MOUs in this section do not extend to the Agreement States; however, the working group did not identify any areas that would disrupt current Agreement State authorities or operations, thereby necessitating individual MOUs between the Agreement States and these Federal Agencies. Applicable requirements from other Federal Agencies are codified in NRC regulations and the Agreement States will implement the requirements in accordance with NRC Management Directive 5.9.