

Comment Resolution Document

Summary of Comments for *Interim SA-201, Review of State Regulatory Requirements*

Sent to the Agreement States, NRC NMSS, NRC Regions I, III, and IV for Comment in STC-19-078, December 9, 2019

Comment No.	Source	Location	Comment	Accepted	Remarks
1	CO	General	While we understand that the revision and authoring of these procedures is a multi-organization process involving many individuals, when looking at the collection there seems to be a multitude of different voices and writing styles and as a result it lacks uniformity.	Yes	Efforts have been taken to address these differences.
2	CO	General	Specifically, it appears that many of the appendices address common items and it would be appropriate to use common titles for the appendices and to keep them in a common order if possible.	Yes	Please note that most of the appendices in the interim procedures (i.e., the “Examples of Less than Satisfactory Findings of Program Performance” from the common and non-common IMPEP performance indicators; the casework summary sheets, and inspector accompaniment summary sheets, will be posted on the IMPEP toolbox at: https://scp.nrc.gov/impeptools.html) have been removed and will be

					placed on the SCP Web site to allow for dynamic revisions.
3	CO	General	Additionally, during the drafting process the idea of consistency within these procedures regarding the phrase "Agreement State or NRC..." vs. "NRC or Agreement State..." was discussed. This should be made uniform throughout the procedures.	YES	Procedure revised accordingly.
4	CO	V	Additionally, the Colorado program does not support submitting every site specific or licensee specific license condition for compatibility review, this will increase the amount of time processing licensing actions. Additionally, the concept of "standard license condition" versus one that should be sent in for NRC review is ill defined.	Partial	<p>The procedure was revised to add an item #5 under Section V.A. Overview. This contains information from the Agreement State Policy Statement regarding Agreement State flexibility in adopting legally binding requirements, i.e., license conditions. Those LBRs that you state as "site specific or licensee specific" would be acceptable if they meet the terms of the Policy Statement, e.g., under the state's jurisdiction. The use of any non-standard license condition will be examined during the State's IMPEP review.</p> <p>The procedure was revised to add that "standard license conditions"</p>

					means those included in NUREG-1556, Volume 20.
5	CO	V	Section V Guidance (pg 9/44): Should the lead-in paragraph at the top of this section also mention/discuss legally binding requirements (LBR), since it is discussed in further detail later on in the section?	Yes	Procedure revised accordingly.
6	AR	III.B.	<p><u>Paragraph III.B. – page 5 of the pdf</u></p> <p>Since it is likely not appropriate for all Agreement States to submit proposed amendments to the NRC at the same time these amendments are presented for public comment, that particular sentence could be caveated with “depending on the administrative rulemaking requirements and timeline the Agreement State or State seeking an Agreement must follow.” It might be more time efficient (important when a State is trying to meet an adoption date) to determine, prior to beginning the rulemaking process, items that would require substantive changes due to NRC’s review versus determining this during the public comment period. Discovering substantive issues at this point in the timeline puts a stop to the rulemaking</p>	Yes	Procedure revised accordingly

			<p>process, and the State must begin the rulemaking process again...or otherwise proceed with adopting the proposed rules as final, including those in need of substantive changes. This sort of adoption is usually not desirable. We rarely receive substantive comments from the public during our 30-day public comment period.</p> <p>Besides time efficiency, senior ADH management usually wishes to review proposed rules already vetted by the NRC prior to being presented to the public.</p> <p>Instead of, or in addition to, adding the qualifier, another option would be to say, "Such requests are <i>often</i> submitted at the same time they are published for public comment."</p>		
7	AR	V.A.3.	<p><u>Paragraph V.A.3. – page 9 of the pdf</u></p> <p>If 15% of the proposed rule reviews may take longer than 60 days, then I suggest recommending to the States that submittal should occur 120 days prior to the date that comments are needed. We have found that it is best to consider the greatest number of days that a particular step in the</p>	YES	Procedure revised accordingly.

			lengthy rulemaking process could take when determining how soon to begin drafting new rule language in order to meet the adoption deadline. If the State were to only consider 60 days, they may come up short concerning their rulemaking timeline.		
8	AR	V.A.4.	<p><u>Paragraph A.4. – page 11 of the pdf</u></p> <p>I am a little confused as to the statement that says Agreement States should only submit LBRs for review that are intended to substitute for NRC rules. I am remembering some license conditions (an example of an LBR) that became license conditions <u>because</u> they are not included in NRC regulations (i.e., leak test requirements). I see the last sentence that says, “An Agreement State should not add/implement any license conditions that have not been reviewed by the NRC.” This seems to contradict the initial statement that NRC would only review LBRs that are intended to substitute for NRC rules.</p>	Partial	SEE COMMENT NO. 4 RESPONSE.
9	AR	B.1.	<p><u>Paragraph B.1. – page 11 of the pdf</u></p> <p>If using Microsoft Word “Track Changes” in a rule draft is optional, there should be no issue. Senior ADH</p>	YES	Procedure revised accordingly.

			<p>management asks our programs to not use this sort of change tracking due to problems experienced. Developing two totally separate drafts would be very labor intensive and therefore impossible. ADH prefers the line-in/line-out format as previously used.</p>		
10	AR	C	<p><u>Paragraph C. – page 12 of the pdf</u></p> <p>If a proposed rule review is allowed up to 120 days to be performed, I recommend not using “sixty-day review period.” Perhaps “sixty-day” could just be removed from the sentence.</p>	No	The 60-day requirement is the NRC goal of review completion.
11	AR	D	<p><u>Paragraph D. – page 13 of the pdf</u></p> <p>Reviews being assigned within “two business days” of receipt of a complete State package seems to contradict page 3 of the pdf (paragraph II.D.2.) that says packages that have been determined to be complete should be assigned to the reviewer within “three days” of the acceptance review.</p>	Yes	Procedure revised to say, “within three business days” of the acceptance review.
12	AR	G.2.	<p><u>Paragraph G.2. – page 16 of the pdf</u></p>	Yes	Procedure revised to say “business days” in all cases.

			<p>Conducting reviews for technical completeness of incoming State transmittals within “three calendar days” of the receipt of a review request seems to contradict page 3 of the pdf (paragraph II.D.1.) that says the acceptance review of incoming packages should be completed within “three days” of receipt.</p>		
13	AR	APP. A	<p><u>Appendix A, Section I</u></p> <p>It may be clearer to say in the last sentence of the first paragraph that “These differences do not need to be identified <i>as significant</i> or commented on.” I am assuming the reviewer would mark the Difference column as “Yes” since we have titled the section “<u>Differences</u> That are Not Significant” and mark the Significant column as “No.” In other words, the sentence’s saying “do not need to be identified” does not mean to mark “No” in the Difference column.</p>	Yes	Procedure revised to add clarification.
14	AR	APP. A	<p><u>Appendix A, Section I and II.A.</u></p> <p>Paragraph II.A. discusses Compatibility Category A and B regulations and what State/NRC differences would be considered significant/incompatible. There are</p>	Yes	Procedure revised accordingly.

			<p>instances with Compatibility Category B regulations where the language adopted by the State is not exact because the requirement necessitated substituting "Agreement State" for "Commission" or adding "U.S. NRC" to "or equivalent regulations of <i>the U.S. NRC</i> or an Agreement State." Examples include 10 CFR 71.17(b) and 10 CFR 32.51(a). The discussion in II.A. in comparison to these examples would seem to indicate that these differences were significant. Perhaps II.A. could be clarified.</p> <p>In Section I, it may be helpful to discuss the difference having to do with my above comment that would not be considered significant.</p>		
15	AR	FAQs	<p><u>Question 15 of the Frequently Asked Questions</u></p> <p>In some instances, Agreement States should not use the SSRs for changes to NRC regulations that occurred <u>before</u> the SSR approval date either. For example, SSR Part T.</p>	Yes	Procedure revised to state, "Agreement States should not use the SSRs for NRC regulations that were revised after the SSR approval date."
16	NJ	General: Applies to all Interim SA procedures	Follow-up should be hyphenated.	Yes	Procedure revised accordingly.

ADAMS ACCESSION NUMBERS

PACKAGE: ML20183A152

COMMENT RESOLUTION DOCUMENT: ML20184A178