

EXAMPLES OF LESS THAN SATISFACTORY FINDINGS OF PROGRAM PERFORMANCE FOR LEGISLATIVE, REGULATIONS, AND OTHER PROGRAM ELEMENTS

The effectiveness of a program is assessed through the evaluation of criteria listed in Section III, Evaluation Criteria, of Management Directive 5.6 for this performance indicator. These criteria are NOT intended to be exhaustive but provide a starting point for the IMPEP review team to evaluate this indicator. The review team should also take into consideration other relevant mitigating factors that may have an impact on the program's performance under this performance indicator. The review team should consider a less than satisfactory finding when the identified performance issue(s) is/are programmatic in nature, and not isolated to one aspect, case, individual, etc. as applicable.

This list is not all inclusive and will be maintained and updated in the IMPEP Toolbox on the state communications portal Web site.

The following are examples of review findings that resulted (or could result) in a program being found **"satisfactory, but needs improvement"** for this indicator:

- a) The Agreement State had not adopted and implemented several (i.e., more than two, but not many) significant rulemaking packages within the 3-year adoption due date, however, the final regulations were in the legislative process for promulgation.
- b) The Agreement State had adopted and implemented final regulations for all RATS IDs that became due during the review period; however, the compatibility comments identified during the NRC review were that the Agreement State's final regulations omitted more than a few of the required regulations.
- c) The Agreement State passed legislation that affected the radiation control program which they did not submit for NRC's review, and a few of the aspects of the legislation were found to conflict with their 274b Agreement.
- d) The Agreement State implemented a license condition that was not submitted for NRC review, and was found to be not compatible with equivalent NRC regulations.

The following are examples of review findings that resulted (or could result) in a program being found **"unsatisfactory"** for this indicator:

- a) The Agreement State had not implemented the Pre-licensing checklist and had issued a license to an unknown entity and after a State investigation, it was determined that the unknown entity had used the authorized materials for malicious purposes.
- b) The Agreement State had not adopted and implemented a majority of the significant safety and/or security-related regulations within the 3-year period.
- c) The Agreement State passed enabling legislation which contained provisions for the State to regulate the siting of a facility to dispose of high-level radioactive wastes which is not authorized under their 274b Agreement.
- d) The Agreement State issued a license condition for visiting medical authorized users and did not submit it for NRC review. This provision is not compatible with 10 CFR Part 35.

The State's investigation of the use of this condition by licensees found cases in which authorized medical users were allowed to practice without the proper training and experience credentials.