

## EXAMPLES OF LESS THAN SATISFACTORY FINDINGS OF PROGRAM PERFORMANCE FOR URANIUM RECOVERY PROGRAM

The effectiveness of a program is assessed through the evaluation of the criteria listed in Section III, Evaluation Criteria, of MD 5.6, *Integrated Materials Performance Evaluation Program (IMPEP)*. 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 website: <https://scp.nrc.gov>.

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

- The program's questionnaire response indicated that there were no allegations received during the review period. However, in reviewing the list of incidents and concerns, the review team identified more than a few concerns that should have been identified as allegations. Each of the concerns was a statement or assertion of impropriety or inadequacy associated with regulated activities, in which the validity had not been established. There exists a programmatic issue with regard to the programs ability to properly assess and/or capture the impact of the licensee's improprieties or inadequacies with regard to incidents, allegations, and concerns.
- Based on the accompaniments and discussion with staff, the review team found that the uranium recovery program staff did not consistently use instrumentation to perform independent and confirmatory survey measurements. This indicates potential issues related to staff training. A program can not properly assess if the licensee is conducting the licensed activities in a safe manner that protects the workers and members of the public and verify if the licensee is controlling the licensed materials adequately, if it fails to properly perform independent and confirmatory survey measurements.
- Overall, based on a review of inspection records and interviews with staff, the review team identified deficiencies in the radiation safety inspections performed since the last IMPEP review. Specifically, for a uranium recovery facility, all of the elements identified in IMC 2801, *Uranium Mill and 11e.(2) Byproduct Material Disposal Site and Facility Inspection Program* were not evaluated.
- The review team determined that the uranium recovery program training and qualification program that was established during the review period was not compatible with IMC 1248, Appendix H, *Training Requirements and Qualification Journal for Uranium Recovery Inspector* because it did not contain the essential objectives of IMC 1248, Appendix H, (e.g., on the job training, training classes, etc.).

- More than a few licenses in the uranium recovery program were inspected at intervals that exceeded the IMC frequency, as per IMC 2641 *In-Situ Leach Facilities Inspection Program* or IMC 2801, *Uranium Mill and 11e.(2) Byproduct Material Disposal Site and Facility Inspection Program* (whichever is applicable), by more than 150 percent, and at the time of the IMPEP review, one inspection was overdue and not yet completed.
- The review team determined that inspection results for the uranium recovery program were not communicated by formal correspondence to the licensee within 30 days. Additionally, closeout letters were not sent out in more than a few inspections. As per MD 5.6, *Integrated Materials Performance Evaluation Program (IMPEP)* inspection findings must be communicated to licensees at the exit briefings and confirmed formally in writing in 30 days after inspection completion.
- During inspector accompaniments, the review team observed one inspector was unable to independently perform a complete inspection. The inspector did not demonstrate proper inspection techniques, familiarity with the license being inspected, use of survey instrumentation, knowledge of proper postings/other regulatory requirements, or an understanding of the uranium recovery operations at the facility's inspected (Directive Handbook 5.6, Section III D.2.a).
- Formal licensing procedures did not exist during the entire review period. The lack of formal written licensing procedures led to some inconsistent, incomplete, and inaccurate licensing actions during the review period (Directive Handbook 5.6, Section III D.2.a).

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

- On the inspection accompaniment, the reviewer noted that the inspector did not address any of the groundwater inspection procedures addressing groundwater protection for in-situ recovery facilities (e.g., IP 89001, *In-Situ Leach (ISL) Facilities*). The reviewer observed several aspects of the in-situ recovery groundwater operations that should have triggered concerns or questions from the inspector; however, those items are not addressed during the inspection. During the site review, the reviewer determined that the uranium recovery program routinely conducted inspections but found the program systemically did not inspect the groundwater protection provisions as required by the program. Furthermore, the reviewer was informed by staff that the program was not the responsible agency, as another State agency (i.e., under the Safe Drinking Water Act) conducts inspections for similar provisions. The reviewer informed the staff that while it is the program's responsibility to determine how its regulations are implemented, the program under the Atomic Energy Act cannot abdicate its responsibility for compliance with its regulations entirely to another program which is operating under auspices of another statute and not subject to a review.

- For the review period, the radiation control program did not receive reports of any incidents related to the uranium recovery program even though there were incidents during the review period. It was determined by the review team that the program while revising their current incident and allegations procedures, does not have incident and allegations procedures to follow, nor are any incident response and allegations procedures being implemented. A program must have incident and allegations procedures and must be able to properly implement these procedures in order for the program to be able to properly capture and address incidents and allegations with regard to public health and safety as per guidance in SA-105, *Reviewing the Common Performance Indicator, Technical Quality of Incident and Allegation Activities*.
- It was determined by the review team that most licensees were inspected at intervals that exceed the frequencies prescribed in IMC 2801, *Uranium Mill and 11e.(2) Byproduct Material Disposal Site and Facility Inspection Program* or compatible Agreement State procedure (for conventional uranium mills), or intervals that exceed the frequencies prescribed in IMC 2641 *In-Situ Leach Facilities Inspection Program* or compatible Agreement State procedure (for in situ leach facilities).
- Members of the review team accompanied a uranium recovery program inspector during inspections of uranium recovery facilities. In most cases, inspection findings were not well-founded and/or not communicated to licensees at the exit briefings and were not confirmed formally in writing in 30 days, or 45 days for a team inspection, after inspection completion. Inspection findings related to performance issues did not lead to appropriate and prompt regulatory action by program staff and management in most cases. As per MD 5.6, *Integrated Materials Performance Evaluation Program (IMPEP)*, inspection findings must be communicated to licensees at the exit briefings and confirmed formally in writing within 30 days after inspection completion.
- The review team determined that compatible inspection procedures were not in place and/or not implemented to identify root causes and poor licensee performance. Follow-up inspections did not address previously identified open items and/or past violations in most cases. As per MD 5.6, corrective actions shall address root cause(s) and shall have the potential to achieve compliance and prevent recurrence in most cases reviewed.
- The review team determined that public hearings have not occurred in accordance with the State's administrative laws and/or did not address all aspects of the licensing action associated with a uranium recovery facility.