

DH 5.6 INTERGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM (IMPEP)		DT-XX-XX
Volume 5	Governmental Relations and Public Affairs	
Approved By:	[Name and Title of Approving Official]	
Date Approved:	Month X, 200X [Date of Final Approval]	
Expiration Date:	Month X, 200X [Usually 5 years after Date Approved, Do Not Round to Nearest Work Day If Date Falls on Weekend or Holiday]	
Issuing Office:	[Office Name] [Branch Name]	
Contact Name:	[First Name Last Name] XXX-XXX-XXXX [Phone Number]	

**EXECUTIVE SUMMARY**

Directive and Handbook 5.6 are being revised to incorporate recommendations from two working group reports; directions from the Management Review Board; additional enhancements identified since 2002; and to provide updated revisions based on the Office of State and Tribal Programs name change.

**TABLE OF CONTENTS**

<b>I. EVALUATION.....</b>	<b>2</b>
A. Evaluation Frequency.....	2
B. Evaluation Process Sequence.....	3
<b>II. PERFORMANCE INDICATORS.....</b>	<b>3</b>
A. General.....	3

---

B.	Common Performance Indicators.....	4
C.	Non-Common Performance Indicators.....	6
<b>III.</b>	<b>EVALUATION CRITERIA.....</b>	<b>17</b>
A.	Common Performance Indicator 1—Technical Staffing and Training.....	18
B.	Common Performance Indicator 2—Status of Materials Inspection Program.....	19
C.	Common Performance Indicator 3—Technical Quality of Inspections.....	20
D.	Common Performance Indicator 4—Technical Quality of Licensing Actions.....	21
E.	Common Performance Indicator 5—Technical Quality of Incident and Allegation Activities.....	22
F.	Non-Common Performance Indicator 1—Compatibility Requirements.....	23
G.	Non-Common Performance Indicator 2—SealedmSource and Device-Evaluation Program.....	24
H.	Non-Common Performance Indicator 3—Low-Level Radioactive Waste-Disposal Program.....	27
I.	Non-Common Performance Indicator 4—Uranium Recovery Program.....	33
J.	Non-Common Performance Indicator 5—Regional Fuel Cycle Inspection-Program.....	37
K.	Non-Common Performance Indicator 6—Site Decommissioning Management-Plan (SDMP).....	46
<b>IV.</b>	<b>PROGRAMMATIC ASSESSMENT.....</b>	<b>50</b>
A.	General.....	50
B.	Adequacy Findings for Agreement State Programs.....	51
C.	Compatibility Findings for Agreement State Programs.....	51
D.	Adequacy Findings for NRC Regional Programs.....	52
E.	Guidance for MRB Determinations for Agreement State Programs.....	52
F.	Guidance for MRB Determinations for NRC Regional Programs.....	54
<b>V.</b>	<b>GLOSSARY.....</b>	<b>55</b>
<b>I.</b>	<b>EVALUATION.....</b>	<b>2</b>
A.	<u>NRC's Oversight Responsibility of Agreement State Programs</u>	
B.	<u>Evaluation Frequency.....</u>	
C.	<u>Evaluation Process Sequence.....</u>	2
D.	<u>Other Reviews Under IMPEP.....</u>	3

- E. Planning for IMPEP Reviews
- F. IMPEP Training and Qualification Process
- II. PERFORMANCE INDICATORS..... 3**
  - A. General..... 3
  - B. Common Performance Indicators..... 4
  - C. Non-Common Performance Indicators..... 6
  - D. Partial Performance Indicators
- III. EVALUATION CRITERIA..... 17**
  - A. Common Performance Indicator 1—Technical Staffing and Training..... 18
  - B. Common Performance Indicator 2—Status of Materials Inspection Program..... 19
  - C. Common Performance Indicator 3—Technical Quality of Inspections..... 20
  - D. Common Performance Indicator 4—Technical Quality of Licensing Actions..... 21
  - E. Common Performance Indicator 5—Technical Quality of Incident and Allegation Activities..... 22
  - F. Non-Common Performance Indicator 1—Legislation and Regulations..... 23
  - G. Non-Common Performance Indicator 2—Sealed Source and Device Evaluation Program..... 24
  - H. Non-Common Performance Indicator 3—Low-Level Radioactive Waste Disposal Program..... 27
  - I. Non-Common Performance Indicator 4—Uranium Recovery Program..... 33
- IV. PROGRAMMATIC ASSESSMENT..... 50**
  - A. General..... 50
  - B. Adequacy Findings for Agreement State Programs..... 51
  - C. Compatibility Findings for Agreement State Programs..... 51
  - D. Adequacy Findings for NRC Regional Programs..... 52
  - E. Guidance for MRB Determinations for Agreement State Programs..... 52
  - F. Guidance for MRB Determinations for NRC Regional Programs..... 54
- V. GLOSSARY..... 55**

## I. EVALUATION

### A. NRC's Oversight Responsibility of Agreement State Programs

The authority for review of Agreement States is contained in Section 274j(1) of the Atomic Energy Act (AEA), as amended. The NRC has programmatic responsibility to periodically review the actions of the Agreement States to comply with the requirements of the AEA to continue to maintain adequate and compatible programs. While this authority is reserved to the NRC, the current review process, Integrated Materials Performance Evaluation Program (IMPEP), is conducted with Agreement State staff participation under the National Materials Program<sup>1</sup>. The IMPEP process employs a team of NRC and Agreement State staff to assess materials programs.

### B. Evaluation Frequency

The NRC will review reviews the performance of each NRC region and each Agreement State, and applicable NRC headquarters program on a periodic basis. The schedule for conducting each regional or Agreement State visit will be review is developed by the Office of Nuclear Material Safety and Safeguards (NMSS) and the Office of State and Tribal Programs (STP) in coordination with the regions and States. Approximately 8 to 10 reviews will be. The IMPEP reviews of the NRC and Agreement State materials programs are typically scheduled in most years. Under normal conditions, this schedule would allow evaluations of NRC regions and Agreement States every 4four years; however, IMPEP reviews may be extended to five years. However, these frequencies can be adjusted downward on the basis if the materials program has had two consecutive IMPEP reviews with all indicators found satisfactory. The interval between IMPEP reviews may be shortened due to performance weaknesses and at the direction of the findings from MRB, based on the last review; team's recommendation, or other information obtained during the MRB meeting or in light of significant program changes in a particular State or region. In addition, this schedule provides for review of certain NMSS headquarters functions on an as needed basisperiod.

### C. 1Evaluation Process Sequence

The typical evaluation process sequence for the ~~integrated materials performance evaluation program (IMPEP) reviews~~ IMPEP review is summarized below:

1. Develop the review schedule for the year.
2. Assemble and train team members.
3. Designate a team leader and members for each scheduled review.

---

<sup>1</sup>The National Materials Program is defined as the broad collective framework within which both the NRC and the Agreement States function in carrying out their respective radiation safety regulatory programs.

4. Transmit ~~questionnaires to affected regions and States.~~ the IMPEP questionnaire to the program scheduled for review.
5. Provide to team members a copy of questionnaire responses and the most current information on the ~~region or Agreement State.~~ program.
6. Assess a sample of inspections at different types of licensed facilities by accompanying inspectors before the onsite portion of the IMPEP.
7. Conduct the onsite portion of the IMPEP review, using the criteria specified in this handbook and applicable performance review procedures.
8. Prepare a draft IMPEP report, with the recommendation for the overall program performance ~~evaluation~~, for the ~~team leader's~~ Agreement State Program Branch (ASPB) Branch Chief's signature and team leader concurrence.
9. Issue the draft report to the ~~appropriate regions or States.~~ program.
10. Review and consider written comments received from the ~~regions or Agreement States.~~ program.
11. Prepare the proposed final report for consideration by the ~~management review board~~ Management Review Board (MRB).
12. Conduct the MRB meeting.

**D. Other Reviews Under IMPEP**

**1. Follow-up IMPEP Reviews:**

A followup IMPEP review is a limited evaluation specific to findings from a previous IMPEP review and is conducted before the next routine IMPEP review. The purpose of the followup IMPEP review is to evaluate a materials program's response to recommendations, and to re-evaluate indicator(s) found "unsatisfactory."

**2. Focused IMPEP Reviews:**

A focused IMPEP review is a special review under IMPEP that is performed due to unforeseen circumstances that occur during an IMPEP cycle. The purpose of the focused IMPEP review is to address the specific circumstance or challenge facing a materials program.

1. ~~Periodic Issue final reports; include the written comments received from the regions or Agreement States and any change to the report based on resolution of those comments and a summary of MRB findings.~~
3. ~~Meetings:~~

The periodic meeting created to help the NRC and the Agreement States remain knowledgeable of the respective programs and to plan for future IMPEP reviews. The purpose of the periodic meeting is to provide an open forum for interactive discussions of a materials program status and performance.

**E. Planning for IMPEP Reviews**

For complex programs and programs with closed low-level radioactive waste and uranium recovery, the IMPEP team leader should prepare a review plan for the respective evaluations.

**F. IMPEP Training and Qualification Process**

The training and qualification process is intended to provide IMPEP team members and team leaders with sufficient knowledge to conduct State and NRC material program reviews that are technically correct and in accordance with NRC policies and procedures. NMSS procedure <insert the SA> describes training requirements and guidelines for the IMPEP team member and team leader qualifications.

## II. PERFORMANCE INDICATORS

### A. General

1. 1A description of the common and non-common performance indicators to be evaluated, as appropriate, for each NRC region and each Agreement State, and applicable NRC headquarters program is given in Sections (B) and (C) of this part. The evaluation criteria (i.e., performance standards) against which these indicators are to be assessed are described in Part III of this handbook. These reviews ~~ensure regional programs provide adequate public health and safety and determine program adequacy and compatibility in the Agreement States. The reviews are instrumental in improving State and NRC regional performance, thus ultimately leading to improved licensee performance. The review should~~ should be performance-based and are used to evaluate whether the NRC and Agreement State programs provide adequate protection of public health and safety ~~has been achieved. The outcome, and security, and to determine compatibility of the Agreement States. The review should identify potential impacts on public health and safety, and the root identify~~ underlying causes ~~of in areas where~~ performance ~~that~~ does not fully meet the criteria. ~~The reviews are instrumental in improving the NRC and Agreement State program performance, thus ultimately leading to improved and more consistent assessment of licensee performance throughout the NMP.~~
2. The performance indicators should be used as a starting point of inquiry. This, in turn, should lead ~~program evaluators review team members~~ to a more careful examination of the underlying ~~conditions, or root~~ causes of potential problem areas. ~~Evaluators Review team members~~ may find ~~correlations exist between two or more the cause(s) of a program~~ performance ~~indicators, problem in more than one performance indicator~~. In this situation, the impact of ~~individual issues in one~~ performance ~~symptoms indicator~~ could be compounded when combined with others ~~and correlate with performance in another indicator~~. Conversely, a regulatory program ~~measured as potentially weak against with~~ ~~deficiencies in~~ one particular indicator could, nonetheless, be ~~rated as strong overall found~~ satisfactory if there are sufficient mitigating factors with respect to other indicators.
1. ~~Certain non-reactor functions that continue to be conducted from NRC headquarters or Region II, such as fuel cycle licensing, fuel cycle inspections, uranium and thorium milling licensing, 1sealed source and device reviews, and low level radioactive waste 1disposal licensing, are excluded from the set of common indicators because they are not common to the activities of the NRC regions and Agreement States. These functions are incorporated, as appropriate, as non-common indicators contributing to a performance-based evaluation of a program.~~

~~2. For Agreement States, the non-common indicators are compatibility requirements, the sealed source and device evaluation program, the low-level radioactive waste disposal program, and the uranium recovery program.~~

**B. Common Performance Indicators**

1. Common Performance Indicator 1—Technical Staffing and Training ~~(1)~~

~~(a) The ability to conduct an effective licensing and inspection programs regulatory program is largely dependent on having a sufficient number of experienced, knowledgeable, well-trained technical personnel. Under certain conditions, staff~~

~~(b) Staff turnover could and understaffing may have an adverse effect on the implementation of these programs the regulatory program, and thus could affect the program's ability to protect public health and safety, and maintain a compatible program. Items that should be considered include:~~

~~(a) For this performance indicator, qualitative as well as quantitative measures must be considered. In particular, the reason for apparent trends in staffing must be explored, for example—~~

~~(i) Is the rate Sufficient level of qualified technical and administrative staff;~~

~~(ii) Sufficient management oversight and program support;~~

~~(iii) Rate of turnover and the degree of understaffing symptomatic underlying causes, and length of time that positions are vacant;~~

~~(iv) Determination as to whether staffing issues are a chronic problem or is it merely a short-term phenomenon?;~~

~~(i) Why is turnover high?~~

~~(v) What steps are Steps being taken to address this turnover? staffing issues; and~~

~~(vi) 1What impact is it having Impact of staffing issues on other performance indicators?;~~

~~(b) Review of staffing also requires a consideration and evaluation of the levels of training and (c) Training and qualification of the technical staff. Newly hired employees must be technically qualified. Professional should be evaluated.~~

~~Technical staff should normally have a bachelor's degree or equivalent training and/or experience in the physical and/or life sciences. Training requirements for the NRC license reviewers and inspectors are specified in the NRC Inspection Manual; Chapter 1246.(IMC)1248, "Formal Qualifications Program for Federal and State Material and Environmental Management Programs" which includes qualification journals for license reviewers and inspectors. The requirements include a combination of classroom requirements didactic instruction and practical on-the-job training. Some NRC regions impose additional requirements on certain license reviewers or inspectors, depending on their individual responsibilities and appropriate to the types of licenses they review and/or inspect.~~



~~In addition, the qualification process for NRC materials program inspectors includes demonstration of knowledge of relevant sections of the Code of Federal Regulations, completion of a qualifications journal, and appearance before a qualifications board. Although reviewed or inspected, Agreement States need not should follow NRC Inspection Manual, Chapter 1246, IMC 1248, or they should have an equivalent a compatible documented program for training and qualification of personnel, and it should be present and adhered to in Agreement State programs.~~

~~The evaluation standard measures the (d) \_\_\_\_\_ The overall quality of training available to, and taken by, materials program personnel; should be evaluated. The staff should be afforded opportunities for training and refresher training that are consistent with the needs of the program, such as attendance at counterpart meetings, university programs, technical workshops, and conventions.~~

## 2. Common Performance Indicator 2—Status of Materials Inspection Program

(a) ~~1~~Periodic inspections of licensed operations are essential to ensure that activities are being conducted in compliance with regulatory ~~1~~requirements and consistent with good safety practices. The frequency of inspections is specified in ~~the~~ NRC Inspection Manual, Chapter 2800, and is dependent on the amount and kind of ~~agreement~~ material, the type of operation licensed, and the results of previous inspections. There must be a capability for maintaining and retrieving statistical data on the status of the inspection program.

(b) Information regarding the number of ~~high priority~~ overdue inspections is a significant measure of the status of an Agreement State's or an NRC region's materials inspection program; ~~reviews~~. ~~Reviews~~ also should examine specific cases in detail when the inspection frequency has been significantly exceeded (i.e., by more than 50 percent). ~~The terms "materials inspection" and "overdue core-inspection" are defined in the Glossary of this handbook~~ High priority inspections are defined as initial inspections and routine Priority 1, 2, and 3 inspections.

~~(c) Reciprocity inspections are essential to ensure that activities conducted under reciprocal recognition are in compliance with regulatory requirements and consistent with good safety practices. The NRC follows IMC 1220, "Processing of NRC Form 241 and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20" to meet its reciprocity objectives. Agreement State programs could use a similar a risk informed, performance-based approach for determining reciprocity candidacy as its alternative policy for reciprocity inspection performance in lieu of IMC 1220.~~

## 3. Common Performance Indicator 3—Technical Quality of Inspections

- (a) ~~This~~ Review of this indicator should focus on the scope, completeness, technical quality and accuracy of completed inspections and related documentation. The observations by the review team made during the accompaniment of program staff during inspections of licensed facilities is a key aspect to evaluating the program's **performance indicator** ~~provides regarding the qualitative balance~~ licensee's adherence to **Performance Indicator 2** above, which looks at regulatory requirements and the status safe and secure use of agreement material.
- (b) The review team will examine **the** documentation and implementation of NRC or compatible Agreement State **inspection program** ~~on a quantitative basis. Review procedures and guidance.~~
- (c) Review teams will conduct in depth, onsite reviews of a ~~1~~ cross-section of completed inspection reports performed by different inspectors with a focus on high priority and security inspections.
- (d) The review **team members will accompany** ~~a sample of inspectors~~ program staff on a sufficient number of higher priority inspections **at different types of licensed facilities to evaluate** ~~assess the knowledge and~~ skills, capabilities of the NRC regional and Agreement State inspectors. The review team will also examine adherence to NRC and/or compatible Agreement State inspection procedures. **These accompaniments will occur at a time other than** ~~prior to the onsite review of the NRC region or Agreement State to afford the review team sufficient time to observe inspectors at different types of licensee facilities. These reviews focus on the scope, completeness, and technical accuracy of completed inspections and related documentation. Review teams will conduct in depth, onsite reviews of a 1 cross-section of completed inspection reports performed by different inspectors. In addition, review teams will verify that~~
- (e) Review teams will verify the accompaniment of all inspectors on an annual basis by supervisors or designees, such as senior staff, to evaluate the knowledge, skills, and capabilities of the NRC regional and Agreement State inspectors. ~~1 supervisors generally conduct accompaniments of inspectors on an annual basis to provide management quality assurance.~~

#### 4. Common Performance Indicator 4—Technical Quality of Licensing Actions

- (c) An acceptable program for licensing radioactive material includes preparation and use of internal licensing guides and policy memoranda to ensure technical quality in the licensing program (when appropriate, NRC guides may be used); pre-licensing inspection of complex facilities; and supervisory review, when appropriate.

- (a) This performance indicator evaluates the technical quality of the licensing program on the basis of an ~~in depth~~ in depth, onsite review of a representative cross-section of licensing actions. The review team will examine the documentation and implementation of NRC or compatible Agreement State licensing guidance and procedures.
- (b) The review team will evaluate the program's performance for implementing its pre-licensing guidance, and supervisory or peer review of licensing actions.
- (c) The review should include an examination of various license types and licensing actions with emphasis on those with high risk-significant materials and activities, including ~~license new licenses, renewals, amendments, terminations, and decommissioning actions and bankruptcies, and various types of licenses.~~
- (d) The onsite review should capture a representative cross-section of licensing actions as completed by each of the reviewers in the region or Agreement State.
- (e) ~~Technical quality includes not only of reviews should examine the review timeliness of the application and completed licensing actions but also an examination of any renewals. For those licensing actions that have been pending for more than a year because, the review team should determine whether the failure to act on such requests may have health and safety and security implications. To the extent possible, the onsite review also should capture a representative cross-section as completed by each of the reviewers in the region or State.~~

5. Common Performance Indicator 5—Technical Quality of Incident and Allegation Activities

- (a) **The quality, thoroughness, and timeliness of a regulator's response to incidents and allegations of safety concerns can have a direct bearing on ~~public health and safety~~ and security.**
- (b) **A determination of the overall quality of the program will be made after a careful assessment ~~1~~ of incident response and allegation investigation procedures, ~~actual~~ implementation of these procedures, internal and external ~~1~~ coordination, and ~~investigative~~ timely incident reporting, and followup ~~procedures and actions~~ will be a significant indicator of the overall quality of the program.**
- (c) The review team will examine the documentation and implementation of incident response and allegation response procedures.
- (d) The review team will conduct in depth, onsite reviews of a ~~1~~ cross-section of incident response and allegation response reports.

(e) The review team will evaluate Agreement State reporting of incidents to the NRC Headquarters Operations Center and to the Nuclear Material Events Database (NMED).

### **C. 1 Non-Common Performance Indicators**

#### **1. Non-Common Performance Indicator 1—Compatibility Requirements Legislation and Regulations**

- (a) State statutes should authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the agreement. The statutes must authorize the State to promulgate regulatory requirements necessary to provide reasonable assurance of protection of public health and safety. The State must be authorized through its legal authority to license, inspect, and enforce legally binding requirements, such as regulations and licenses. State statutes should be consistent with Federal statutes, as appropriate.
- (b) ~~In accordance~~The Agreement State shall adopt legally binding requirements, such as regulations and other necessary program elements consistent with Management Directive 5.9, "Adequacy and Compatibility of Agreement State Programs," and the current revisions of ~~STPNMSS~~ Procedures, SA-201, "Review of State Regulatory Requirements," and SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements," ~~the State shall adopt legally binding requirements, such as regulations and other necessary program elements consistent with the above guidance.~~
- (c) NRC regulations that should be adopted by an Agreement State for purposes of compatibility or health and safety should be adopted in a time frame so that the effective date of the State 1 requirement is not later than 3 years after the effective date of ~~the~~ NRC's final rule or as approved by the Commission.
- (d) Other program elements that have been designated as necessary for maintenance of an adequate and compatible program should be adopted and implemented by an Agreement State within 6 months following NRC designation.

#### **2. Non-Common Performance Indicator 2—Sealed Source and Device Evaluation Program**

~~Adequate technical evaluations of sealed source and device (SS&D) designs are essential to ensure that SS&Ds used by both licensees and persons exempt from licensing will maintain their integrity and that the design features are adequate to protect public health and safety. Agreement States with authority for SS&D evaluation programs that are not performing SS&D reviews are requested to commit in writing to having an SS&D evaluation program in place (as described in this section) before performing evaluations. NUREG-1556, Volume 3, provides~~

~~information on conducting SS&D reviews that may provide useful guidance for review teams.~~ **Three subelements will be evaluated to determine if the SS&D program is adequate.**

(a) Technical Staffing and Training

Evaluation of SS&D review staffing and training should be conducted in the same manner and as part of the Common Performance Indicator 1 (Sections (B)(1)(a) ~~and (b)~~ (c) of this part), except with a focus on training and experience commensurate with the conduct of the SS&D reviews ~~as described in IMC 1248.~~

(i) ~~The minimum qualifying criteria for SS&D staff authorized to sign registration certificates should be —~~

- ~~• 1BS/BA, or equivalent experience, in physical and/or life science or engineering~~
- ~~• Five-week Applied Health Physics Course (H-109) or equivalent health physics background~~
- ~~• Licensing Practices and Procedures Course (G-109) or equivalent training~~
- ~~• Inspection Procedures Course (G-108) or equivalent training~~
- ~~• One-week NRC course/workshop on SS&D review and evaluations~~

(ii) ~~Staff should have a minimum of 1 year of practical related experience and demonstrated ability to conduct adequate SS&D reviews, including being able to —~~

- ~~• Understand and interpret appropriate prototype tests that ensure the integrity of the products under normal and likely accidental conditions of use~~
- ~~• Understand and interpret test results~~
- ~~• Read and understand blueprints and drawings~~
- ~~• Understand how the device works and how safety features operate~~
- ~~• Understand and apply the appropriate regulations~~
- ~~• Understand the conditions of use~~
- ~~• Understand external dose rates, source activities, and nuclide chemical form~~
- ~~• Understand and utilize basic knowledge of engineering materials and their properties~~

~~(b)~~ Technical Quality of the Product Evaluation Program

(iii) Adequate technical evaluations of sealed source and device (SS&D) designs are essential to ensure that SS&Ds used by both licensees and persons exempt from licensing will maintain their integrity and that the design features are adequate to protect public health and safety. The technical quality of the product evaluation program should be evaluated by the review team on the basis of an

~~in depth onsite~~in depth review of a representative cross-section of evaluations performed includes various types of products and types of actions:-

- ~~• Product evaluations should be technically accurate and ensure that proper prototype tests or analyses have been performed and passed for the normal and likely accidental conditions of use and that the safety features of the device are adequate to protect public health and safety.~~
- ~~• Completed registration certificates and the status of obsolete registration certificates and registration certificates for products having defects or having been involved in incidents must be clearly and promptly transmitted to NRC, Agreement States, and others, as appropriate.~~
- ~~• Vendors' quality assurance and control programs should be evaluated to ensure that products are built to the same specifications as those listed on the registration certificate. The commitments made in the registrant's application and referenced in the registration certificate must be enforceable.~~

~~1~~1To the extent possible, the ~~onsite~~onsite review ~~also~~also ~~team~~team should capture a representative cross-section ~~as of~~as of completed ~~actions~~actions by each of the ~~NRC or Agreement State~~NRC or Agreement State ~~SS&D~~SS&D reviewers.

(c) Evaluation of Defects and Incidents Regarding SS&Ds

Reviews of SS&D incidents should be conducted in the same manner and as part of the Common Performance Indicator 5 (Section (B)(5) of this part) to detect possible manufacturing defects and the root causes of these incidents. The incidents should be evaluated to determine if other products may be affected by similar problems. ~~Appropriate action and notifications to NRC, Agreement States, and others, as appropriate, should occur in a timely manner.~~

3. Non-Common Performance Indicator 3—Low-Level Radioactive Waste Disposal Program

**Five subelements will be evaluated to determine if an Agreement State's performance of its low-level radioactive waste disposal program is adequate.**

(a) Technical Staffing and Training

Evaluation of staffing and training should be conducted in the same manner and as part of the Common Performance Indicator 1 (Sections (B)(1)(a)~~(d)~~~~(c)~~ of this part), ~~unless the low-level radioactive waste program is organizationally separate from the materials program.~~ The staffing ~~(which for this indicator can include contractual support or support from other State agencies)~~ (which for this indicator can include contractual support or support from other State agencies) ~~should be sufficient to enable the program to complete review of a new application within 15 months, if practicable, in accordance with the Low Level Radioactive Waste Policy Amendments Act.~~ Professional staff

should normally have bachelor's degrees or equivalent training in the physical, life or earth sciences, or engineering. Staff and support contractors' qualifications, training, and experience also should include the disciplines of health physics, civil or mechanical engineering, geology, hydrology and other earth sciences, and environmental science.

(b) Status of Low-Level Radioactive Waste Disposal Inspection

(i) Periodic inspections of low-level radioactive waste disposal facilities, from the pre-operational through the post-closure phase, are essential to ensure that activities are being conducted in compliance with regulatory requirements and consistent with good safety practices.

- ~~Inspections during siting and construction phases are essential to ensure the facility is being sited and constructed in accordance with regulatory and license requirements.~~
- ~~Operational phase inspections are essential for ensuring that disposal activities are being conducted in accordance with license conditions and regulatory requirements.~~
- ~~Closure and post-closure inspections are essential to ensure activities at closure are being conducted in compliance with the regulatory requirements and the facility is performing as expected.~~

~~(ii)~~ 1The frequency of inspections for operating low-level radioactive waste disposal facilities is specified in NRC Inspection Manual, Chapter 2800, as yearly. Inspection frequencies for non- operational phase inspections should be established by the program. There must be a capability for maintaining and retrieving statistical data on the status of the inspection program for the low-level radioactive waste disposal program.

(c) Technical Quality of Inspections

~~This subelement provides the qualitative balance to subelement b above, which looks at the status of the inspection program on a quantitative basis.~~ Review team members will accompany Agreement State inspectors, including onsite resident inspectors, to evaluate their knowledge and capabilities assess the program's performance regarding evaluation of licensee's adherence to regulatory requirements and the safe and secure use of agreement material at low-level radioactive waste disposal facilities during the inspections discussed in subelement b above. These accompaniments will usually occur at a time other than the onsite review ~~of the region or Agreement State~~. Reviews in this area focus on the scope, completeness, and technical accuracy of inspections and related documentation. Review teams will conduct in depth in depth, onsite reviews of completed inspection reports. In addition, review teams will verify that supervisors generally conduct accompaniments of inspectors on an annual basis to provide management quality assurance.

(d) Technical Quality of Licensing Actions

(i) 1An acceptable program for licensing low-level radioactive waste disposal facilities ensures that the proposed waste disposal facilities will meet State licensing requirements for waste product and volume, qualifications of personnel, site characterization, performance assessment, facilities and equipment, operating and emergency procedures, financial qualifications and assurances, closure and decommissioning procedures, and institutional arrangements in a manner sufficient to establish a basis for licensing action. This program may be accomplished through the preparation and use of 1internal licensing guides, policy memoranda, or use of NRC equivalent compatible guides. Licensing decisions should be adequately documented through safety evaluation reports, or similar documentation, of the license review and approval process. Opportunities for public hearings are provided in accordance with applicable State administrative procedure laws during the process of licensing a low-level radioactive waste disposal facility. ~~Pre-licensing interactions with the applicant should be conducted to ensure clear communication of the regulatory requirements.~~

(ii) ~~To~~The review team should evaluate the technical quality of the licensing program, ~~a review in the areas of a technical aspect of a radioactive waste disposal licensing action (e.g., health physics, hydrology, and structural engineering) will be conducted~~ in addition to an evaluation of the license review process. Technical quality includes not only the review of completed actions but also an examination of any ongoing requests for licenses or renewals that may have ~~health and safety~~ and security implications.

(e) Technical Quality of Incident and Allegation Activities

Reviews of low-level radioactive waste program incidents and allegations of safety concerns should be conducted in the same manner and as part of Common Performance Indicator 5 (Sections (B)(5) of this part), ~~unless the low-level radioactive waste program is organizationally separate from the materials program.~~

4. Non-Common Performance Indicator 4—Uranium Recovery Program

**1Five subelements, as appropriate, will be evaluated to determine if the performance of the Region IV or an Agreement State's uranium recovery program is adequate.**

(a) 1Technical Staffing and Training

Evaluation of staffing and training should be conducted in the same manner and as part of Common Performance Indicator 1 (Sections (B)(1)(a) ~~(d)-(c)~~ of this part), ~~unless the uranium recovery program is organizationally separate~~. The staffing for this indicator



~~can include contractual support or support from the materials program, other State agencies.~~ Professional staff normally should have bachelor's degrees or equivalent training in the physical sciences, life or earth sciences, or engineering. Staff and support contractors' qualifications, training, and experience should include the disciplines of health physics; civil or mechanical engineering; geology, hydrology and other earth sciences; and environmental science.

(b) Status of the Uranium Recovery Inspection Program

Periodic inspections of licensed uranium recovery operations are essential to ensure that activities are being conducted in compliance with regulatory requirements and consistent with good safety practices. The frequency of inspections is specified in the NRC Inspection Manual, Chapter 2600, for in situ leach mining facilities and in Chapter 2801 for conventional uranium and thorium mills. Uranium recovery facilities that are on standby or under decommissioning also should be inspected at that frequency. Inspections should occur more frequently if significant regulatory concerns develop, before major changes are made to operations, or if generic problems are identified. There must be a capability for maintaining and retrieving statistical data on the status of the inspection program for the uranium and thorium program.

(c) 1Technical Quality of Inspections

~~This subelement provides the qualitative balance to subelement b above, which looks at the status of the inspection program on a quantitative basis.~~ Review team members will accompany ~~the region and NRC or~~ Agreement State inspectors to assess the program's performance regarding evaluation of licensee's adherence to regulatory requirements and the safe and secure use of agreement material to evaluate their knowledge and capabilities at uranium ~~recovery~~milling facilities: during the inspections discussed in subelement b above. These accompaniments will ~~usually~~ occur at a time other than the onsite review of the region or Agreement State. ~~An acceptable program for conducting inspections for radioactive material licenses includes preparation and use of internal inspection guides and policy memoranda to ensure technical quality in the inspection program (when appropriate, NRC guidance may be used).~~ Reviews of this subelement focus on the scope, completeness, and technical accuracy of completed inspections and related documentation. Review teams will conduct indepth in depth, onsite reviews of completed inspection reports. In addition, review teams will verify that supervisors generally conduct accompaniments of inspectors on an annual basis to provide management quality assurance.

(d) 1Technical Quality of Licensing Actions

- (i) An acceptable program for licensing uranium recovery activities ensures that essential elements of NRC licensing requirements for radiation protection, qualifications of personnel, facilities and equipment, operating and emergency

procedures, financial qualification and assurance, closure and decommissioning procedures, and institutional arrangements are met in a manner sufficient to establish a basis for licensing action. This program may be accomplished through the preparation and use of internal licensing guides, policy memoranda, or use of NRC equivalent compatible guides to ensure technical quality in the licensing program. Pre-licensing inspection of complex facilities are conducted, when appropriate.

- (ii) To evaluate the technical quality of the NRC or Agreement State licensing program, an in depth review of an aspect of the uranium recovery license (e.g., radiation protection, hydrology, or geotechnical engineering) will be conducted. Technical quality includes not only the review of completed actions but also an examination of any ongoing requests and license renewals that may have health and safety implications. Technical quality includes review of the Agreement State's compliance with the statutory requirements or prohibitions in Section 274274o of the Atomic Energy Act, as amended.

(e) 1Technical Quality of Incident and Allegation Activities

Reviews of uranium recovery program incidents and allegations of safety concerns should be conducted in the same manner and as part of Common Performance Indicator 5 (Section (B)(5) of this part), ~~unless the uranium recovery program is organizationally separate from the materials program.~~

D. Non-Common Partial Performance Indicator 5—Regional Fuel Cycle Inspection Program Indicators

~~Four subelements, as appropriate, will be evaluated to determine if the performance of the regional fuel cycle inspection program is adequate.~~

~~(d) Technical Staffing and Training~~

- ~~(i) The ability to conduct effective inspection programs is largely dependent on having a sufficient number of experienced, knowledgeable, well-trained technical personnel. Fuel cycle inspectors generally require extensive training in specialized technical areas, in addition to meeting academic requirements. These requirements often result in significant time delays before newly hired inspectors can become certified as qualified NRC fuel cycle inspectors. Under certain conditions, staff turnover could have an adverse effect on the implementation of a region's fuel cycle inspection program, and thus could affect public health and safety. For small programs, their viability may depend upon the continued availability of a single individual with skills and experience that would be difficult to replace with another individual.~~

- (ii) Plans should be in place to replace the functional capabilities required for each aspect of the program (perhaps by contributions from several different individuals), in case a key inspector becomes unavailable (e.g., cross-training of other staff in the same organization, identification of individuals with required skills and qualifications in other NRC organizations, identification of possible outside contractors with suitable experience or expertise to augment specified types of inspections, if needed).
- (iii) Qualitative as well as quantitative measures must be considered; in particular, the reason for apparent trends in staffing must be explored:
  - *Is the rate of turnover or the degree of understaffing symptomatic of a chronic problem, or is it merely a short-term phenomenon?*
  - *Why is turnover high?*
  - *Are inspectors being overburdened?*
  - *Is high turnover related to a morale problem?*
  - *What steps are being taken to address the basic problem?*
  - *What impact is high turnover having on other performance indicator subelements?*
- (iv) Review of staffing also requires a consideration and evaluation of the levels of training and qualification of the technical staff and management. New hires need to be technically qualified. Professional staff normally should have bachelor's degrees or equivalent training in the physical and/or life sciences, or related engineering fields. Training requirements for NRC fuel facility specialist inspectors are specified in NRC Inspection Manual, Chapter 1246. The requirements include a combination of classroom requirements and practical on-the-job training. In addition, the qualification process includes demonstration of knowledge of relevant sections of the Code of Federal Regulations, completion of a qualifications journal, and satisfactory review before a qualifications board. There also are refresher training and retraining requirements, including taking new fuel cycle courses as they are developed.
- (v) The small number of fuel cycle facility inspectors who may need training at any one particular time poses unique challenges to arranging for the proper training of these individuals on a cost-effective basis. The region may have to seek outside training opportunities to provide inspectors with specific safety knowledge needed for unique aspects of their facilities (e.g., heavy duty overhead cranes).
- (vi) After an inspector is trained and initially qualified to perform inspections in a specific technical area, providing additional cross-training opportunities for inspectors will increase the ability of the inspection organization to better respond to facility incidents, unexpected staff turnover, or other unusual situations.

### Status of Fuel Cycle Inspection Program

- (vii) Periodic inspections of licensed operations are essential to ensure that activities are being conducted in compliance with regulatory requirements and license commitments, and in an overall safe and adequate manner.
- (viii) The appropriate frequencies of inspections for established procedures are discussed in NRC Inspection Manual, Chapter 2600. Chapter 2600 provides flexibility to adjust the frequencies, focus, and intensiveness of inspections for different functional areas at a licensed facility, taking into account the complexity, risk level, and previous operating history of the facility. These adjustments are generally determined by consensus of headquarters and regional management during the licensee performance review (LPR) process, or in response to significant facility events or conditions between LPRs.
- (ix) The level of resources provided for an inspection also may be adjusted. Unexpected external influences (e.g., turnover of key staff, diversion of staff for an augmented inspection team [AIT], incident investigation teams, or other inspections in response to incidents, accretion of new regulatory responsibilities without timely provision of additional resources) may occasionally affect the frequencies with which routine inspections can be conducted, or the level of resources available for routine inspections. These influences should be documented and reviewed on a regular basis and integrated into each facility's portion of the fuel cycle master inspection plan. The master inspection plan also should include scheduling of LPRs according to the frequencies specified in NRC Inspection Manual, Chapter 2604.
- (x) Inspection scheduling and planning should consider the resource requirements for both routine and reactive inspection efforts, preparation for and documentation of inspections, and participation in other programmatic duties (e.g., training, licensee performance reviews, licensing support, or participation in or support for enforcement conferences). This planning should permit adequate time for inspectors to complete inspection reports so that the reports can be issued in accordance with the timeliness requirements contained in NRC Inspection Manual, Chapter 0610. Other planning and scheduling factors include concern for unusual impacts on licensees and exchanges of inspection resources between different regions. The established fuel cycle inspection schedule for the region should reflect these considerations.
- (xi) Regional management should monitor the region's inspection program to ensure that the current program is being implemented in accordance with the requirements of the fuel facility inspection program described in NRC Inspection Manual, Chapter 2600, the documented inspection plan for each facility, and overall regional objectives. There should be a capability for maintaining and

~~readily retrieving (without additional analytical effort) the necessary information for demonstrating the extent to which established inspection program objectives are being met. (v) There should be a means for maintaining and readily retrieving regional performance information for each facility. This information may reside in inspection reports, correspondence files, the inspection followup system, or the Nuclear Materials Events Database (NMED). Where there are several different inspectors inspecting each facility, the region may find it more practical to maintain its own summary information files (e.g., site issues matrices, incident analysis summaries, enforcement histories) to assemble the kind of information needed to support the fuel cycle licensee performance review program and to justify any changes in the inspection program for a facility as they occur. (This step would prevent the loss of summary information valuable to the LPR, which is normally provided by the inspectors, if they are not available at the time the LPR is conducted.) Such programmatic changes should be documented at the time they are made. LPRs should be conducted in cooperation with headquarters according to the schedule included in the fuel cycle master inspection plan.~~

~~(xii) The reviewer should examine specific instances in which established inspection program objectives appear not to be met and determine if mitigating circumstances may have been documented to offer justification for departures from the established plans.~~

~~(e) Technical Quality of Inspections~~

~~(i) This subelement provides the qualitative balance to subelement b above, which looks at the status of the inspection program on a quantitative basis.~~

~~(ii) Reviews of programs under this subelement focus on the scope, completeness, and technical accuracy of completed inspections and related documentation. The reviewer will conduct in-depth, onsite reviews of a cross-section of completed inspection reports, selecting from among those performed by different inspectors, if applicable. The reviewer also may interview the respective inspectors, if they are available.~~

~~(iii) The reviewer will verify that supervisors accompany inspectors on an annual basis to provide management quality assurance.~~

~~(iv) Inspection efforts should focus on the licensee's performance in ensuring the safety and safeguarding of operations. Inspection reports should reflect this focus by addressing licensee performance issues regarding plant operations posing the greatest safety or safeguards risks and where previous performance issues have been identified as requiring greater attention, consistent with the inspection program previously documented for the facility.~~

- ~~(v) Conversely, the results of inspections should be summarized and appropriately documented for later reference (e.g., for support of the licensee performance review program).~~
- ~~(vi) Only qualified NRC inspectors are to conduct inspections on their own. When inspector trainees or contractors are included in an inspection visit, at least one qualified NRC inspector should be designated to lead the inspection. In these cases, the qualified inspector should provide guidance to such personnel trainees or contractors to ensure that their activities are appropriate to an NRC inspection.~~

~~(f) Technical Quality of Incident and Allegation Activities~~

- ~~(i) The quality, thoroughness, and timeliness of a regulator's response to incidents and allegations can have a direct bearing on public health and safety.~~
- ~~(ii) Significant indicators of the overall quality of the fuel cycle facility inspection program will include detailed written procedures for incident response and the maintenance of records and reports of actual incidents, focusing on internal and external coordination, and analytical, investigative, and followup procedures.~~
- ~~(iii) The region should exhibit a readiness to respond, in conjunction with headquarters, to major incidents that may arise at a facility. These response activities will include a review of preparations in place at the region's incident response center (e.g., identification of individuals with required skills, facility data for use during emergencies, detailed preparations for responding to the highest risk types of incidents postulated for the facility, on the basis of known facility processes and source terms, etc.).~~
- ~~(iv) The region, possibly in coordination with headquarters, should conduct, or participate in, documented followup self-assessments of drills and responses to any major incidents that involved activation of the region's incident response center.~~
- ~~(v) The region's responses to any allegations involving fuel cycle facilities should be grounded in established inspection procedures and good technical and regulatory analysis to determine if regulations were followed or if they may be deficient and in need of revision with regard to a significant safety issue brought to light by the allegation.~~

~~3. Non-Common Performance Indicator 6—Site Decommissioning Management Plan (SDMP)~~

~~Six subelements, as appropriate, will be evaluated to determine if the performance of the regional site decommissioning management plan (SDMP) is adequate.~~

~~(a) Staff Qualifications~~

~~License reviewers and inspectors are qualified through training and experience to review the safety of decommissioning. Qualifications for license reviewers and inspectors are established and reviewed. Staff members are qualified to perform licensing reviews and inspections related to decommissioning through training and documented work experience. Non-qualified staff members are subject to the direct supervision of qualified managers; this supervision is evidenced by concurrence on inspection reports and licensing documentation.~~

~~(b) Quality of SDMP Decommissioning Reviews~~

~~NRC staff reviews and approves planned, significant decommissioning actions at facilities that are listed on the SDMP in advance of decommissioning. Decommissioning plan reviews are conducted in accordance with NRC Inspection Manual, Chapter 2605; current NRC policies; standard review procedures; and other regulatory guidance. Reviews are documented as outlined in Chapter 2605, using environmental assessments, environmental impact statements, safety evaluation reports, checklists, interrogatories, and other written correspondence, as appropriate.~~

~~(c) Financial Assurance for Decommissioning~~

~~1Adequate financial assurance for the decommissioning of SDMP sites has been established in accordance with 1regulatory requirements and applicable guidance. Financial assurance is provided for estimated costs for an independent third party to perform decommissioning with the objective of releasing the site, unless alternative arrangements have been approved by the regulator. Financial assurance mechanisms are reviewed and maintained to ensure that they would be executable and provide sufficient funding for decommissioning in the event that the licensee liquidates or is otherwise unable to pay for decommissioning.~~

~~(d) Termination Radiological Surveys~~

~~Sufficient radiological surveys are required before license termination and site release, as outlined in NRC Inspection Manual, Chapter 2605, to ensure that residual radioactivity levels comply with release criteria. Licensee survey results are validated through a closeout inspection or confirmatory survey, also outlined in Chapter 2605, given the extent and significance of any residual contamination.~~

~~(e) Inspections~~

~~Decommissioning projects are inspected in accordance with established frequencies and with written inspection procedures to confirm the safety of decommissioning procedures. Inspections are documented and carried out in accordance with NRC~~

~~Inspection Procedures 87104 and 88104. Inspections focus on safety of licensee procedures, release of effluents to the environment, public and worker exposure, and suitability of decontaminated areas and structures for release.~~

~~(f) 1SDMP Milestones~~

~~The decommissioning milestones summarized in the SDMP are being met. If not, delays are identified and there is a mechanism in place to ensure that any appropriate corrective actions are taken. Policy issues affecting the decommissioning of SDMP sites are being identified. Staff is updating the SDMP database in a timely manner.~~

### III. EVALUATION CRITERIA

~~The 1NRC regions and Agreement States will be evaluated in their ability to conduct effective licensing and inspection programs using the common and non-common performance indicators, described in Part II of this handbook, as appropriate. The evaluation criteria for each performance indicator are given below. These criteria do not represent an exhaustive list of the factors that may be relevant in determining performance. In some cases, there may be additional considerations not listed here that are indicative of a program's performance in a particular area. For the non-common performance indicators that contain subelements, a single finding for the overall performance of the non-common performance indicator will be made by the review team. If the review team finds that a State's performance is satisfactory for all subelements evaluated for the non-common performance indicator, the State's performance for this indicator should be found satisfactory. If the review team finds that a State's performance is satisfactory but needs improvement for one or two subelements within the non-common performance indicator and is satisfactory for all remaining subelements, the review team should consider whether the State's performance is satisfactory or is satisfactory but needs improvement for this indicator. If the review team finds that a State's performance is unsatisfactory for one or two subelements within the non-common performance indicator, the review team should consider whether the State's performance is unsatisfactory or is satisfactory but needs improvement for this indicator.~~

#### A. 1Common Performance Indicator 1—Technical Staffing and Training

##### 1. Satisfactory

~~1Review *indicates* demonstrates implementation of a well-conceived and balanced staffing strategy throughout the assessment period and demonstrates the qualifications of the that technical staff. are trained and qualified. This 1performance is indicated by the presence of most of the following features:~~



- (a) There is ~~a balance in sufficient and balanced~~ staffing in all aspects of the licensing and inspection programs materials program.
- (b) There are few, if any, vacancies, especially at the senior-level positions.
- (c) There is prompt management attention and review, such as development of a corrective action plan to address problems in high rates of attrition ~~or~~, positions being vacant for extended periods, and succession planning and knowledge transfer.
- (d) Qualification criteria for hiring new technical staff are established, implemented, and ~~are being followed. (documented.~~ Staff would normally be expected to have bachelor's degrees ~~or equivalent training~~ in the physical and/or life sciences. (or equivalent documented training and/or experience). Senior personnel should have additional training and experience in radiation protection commensurate with the types of licenses they issue or inspect. ~~).~~
- (e) License reviewers and inspectors are trained and qualified in a reasonable time period. ~~For the regions, this means there has been, and continues to~~ There should be, a clear focused and continuous effort to adhere to the requirements and conditions specified in NRC Inspection Manual, Chapter 1246/IMC 1248, and the applicable qualifications journals, or to receive equivalent training elsewhere. ~~For the Agreement States, equivalent compatible~~ requirements should be in place and followed.
- (f) ~~1~~ Management commitment to training is clearly evident.

2. ~~1~~ Satisfactory, But Needs Improvement ~~(2)~~

**Review ~~determines~~ demonstrates the presence of some of the following conditions affecting program performance:**

- (a) ~~Some staff~~ Staff turnover ~~that could~~ adversely ~~upset~~ upsets the balance ~~in of~~ staffing in the ~~licensing and inspection programs materials program~~  affecting performance in other indicator(s).
- (b) Some vacant positions not readily filled.
- (c) Some evidence of lack of management attention or actions to deal with staffing problems.
- (d) The program has only one technically qualified individual and the program has not hired a second individual to provide adequate staffing depth in the program.
- (e) Some of the licensing and inspection personnel not making prompt progress in completing all of the training and qualification requirements.
- (f) The training and qualification standards ~~include areas needing improvement. do not~~ adequately address personnel needs of the program.

- (a) ~~Some of the new staff is hired with little education or experience in physical and/or life sciences, or materials licensing and inspection.~~

3.—Unsatisfactory

**Review** ~~determines~~demonstrated the presence of chronic or acute problems significant performance issues under the other indicators which are determined to be related to some of the following conditions, which cause concerns about their likely effects on other performance indicators:

- (a) There is insufficient staffing for the needs of the program.
- (b) There is significant staff turnover relative to the size of the program; resulting in unsatisfactory performance in another indicator.
- (c) Most vacant positions are not filled for extended periods.
- (d) ~~1~~There is little evidence of management attention or actions to deal with staffing problems.
- (e) Most of the licensing and inspection personnel are not promptly completing all of the training and qualification requirements: specified in IMC 1248 (or compatible Agreement State requirement) or equivalent requirements of the program .
- (f) New staff members are hired without the scientific or technical backgrounds that would equip them to receive technical training.

2. ~~Category N~~

~~Special conditions exist that provide justification for withholding a rating. For example, there has been a substantial management effort to deal with staffing problems. NMSS or STP has been kept informed of the situation, and discernable recent progress is evident.~~

**B.—Common Performance Indicator 2—Status of Materials Inspection Program**

1. Satisfactory

- (a) ~~Core licensees (initial inspections and~~ Less than 10 percent of all routine inspections of Priority 1, 2, or 3} licensees due for inspection over the review period are inspected at regular intervals in accordance with exceeding the frequencies prescribed ~~identified~~ in NRC Inspection Manual, Chapter IMC 2800.
- (b) ~~Deviations from these schedules are normally coordinated between working staff and management. Deviations are~~ generally the result with a grace period of joint decisions that consider the risk of licensee operation, past licensee performance,

~~and the need to temporarily defer the inspection(s) to address more urgent or more critical priorities.~~

- ~~(c) There is a plan to reschedule any missed or deferred inspections or a basis established for not rescheduling.~~
- ~~(d) A large majority of the inspection findings are communicated to licensees in a timely manner (30 calendar days as specified in NRC Inspection Manual, Chapter 0610).~~

## ~~2. Satisfactory, But Needs Improvement~~

- ~~(a) More than 10 percent of the Priority 1, 2, or 3 licensees are inspected at intervals that exceed the NRC Inspection Manual, Chapter 2800, frequencies by more than 25 percent.. Initial inspections that are completed more than 12 months after license issuance are also included in the 10 percent calculation.~~
- ~~(b) Many of Inspection findings are typically communicated to the licensee within 30 calendar days after all inspection findings are delayedrelated information has been obtained, and an inspection has been determined to be completed.~~
- ~~(c) Reciprocity inspections are performed in a manner that meets the requirements identified in IMC 1220 or alternative reciprocity inspection policy.~~

## ~~3. Satisfactory, But Needs Improvement~~

- ~~(a) More than 10 percent of all Priority 1, 2, or 3 licensees due for inspection over the review period are inspected at intervals exceeding the frequencies identified in IMC 2800 with a grace period of 25 percent. Initial inspections that are completed more than 12 months after license issuance are also included in the 10 percent calculation.~~
- ~~(b) Inspection findings are often not communicated to licensees within 30 daysthe licensee within 30 calendar days after all inspection related information has been obtained, and an inspection has been determined to be completed..~~
- ~~(c) Some Reciprocity inspections are not performed in a manner that meets requirements identified in IMC 1220 or alternative reciprocity inspection policy.~~

## ~~4. Unsatisfactory~~

- ~~(a) More than 25 percent of ~~the all~~ Priority 1, 2, or 3 licensees due for inspection over the review period are inspected at intervals ~~that exceed~~exceeding the ~~NRC Inspection Manual, Chapter 2800,~~ frequencies ~~by more than~~identified in IMC 2800 with a grace period of 25 percent.. Initial inspections that are completed more than 12 months after license issuance are also included in the 25 percent calculation.~~
- ~~(e) 1Most inspection-Inspection findings are ~~delayed or~~ not communicated to ~~licensee~~the licensee within 30 calendar days.~~

~~3. 1Category N~~

~~(b) Special conditions exist that provide adequate justification for withholding a rating. For example, an unforeseen event or emergency with significant health after all inspection related information has been obtained, and safety consequences may have required a temporary diversion of resources from the core an inspection program. However, these programmatic adjustments are well thought out, and properly coordinated with Office of Nuclear Material Safety and Safeguards (NMSS) or Agreement State management. has been determined to be completed.~~

~~(c) Reciprocity inspections are not performed in a manner that meets requirements identified in IMC 1220 or alternative reciprocity inspection policy.~~

**C. Common Performance Indicator 3—Technical Quality of Inspections**

1. Satisfactory

~~(a) Review team members accompanying IMPEP inspector accompaniments indicate that inspectors combined with an onsite review are knowledgeable of a representative cross-section of completed the requirements for license types being inspected and are able to identify potential health, safety, and security concerns. Inspectors demonstrate proper inspection report technique and adherence to established inspection procedures.~~

~~(a) An evaluation of inspection casework indicates that inspections are complete, inspection findings are usually well founded, and well documented throughout the assessment.~~

~~(b) A review of inspector field notes or completed reports indicates that most inspections inspection results are complete and reviewed promptly by supervisors or management.~~

~~(c) Procedures are in place and normally used to help identify ~~root~~ underlying causes and poor licensee performance.~~

~~(d) In most instances, followup Followup inspections address previously identified open items and/or past violations.~~

~~(e) 1Inspection findings generally lead to appropriate and prompt regulatory action.~~

~~(f) 1Supervisors accompany nearly all inspectors on an annual basis.~~

2. Satisfactory, But Needs Improvement

- 
- (a) IMPEP inspector accompaniments indicate that not all inspectors are fully knowledgeable of the requirements for license type being inspected, and may not be able to identify potential health and safety, and security concerns. Not all inspectors demonstrate proper inspection preparation, technique, and adherence to established inspection procedures.
  - (b) Review indicates that some inspections do not address potentially important health and safety concerns or it indicates ~~periodic~~ problems with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.
  - (c) ReviewAn evaluation of inspection casework indicates that findings in inspection reports and inspection files are, ~~on occasion,~~ not always well founded or well documented.
  - (d) Review ~~does~~ indicates there is not ~~demonstrate~~ an appropriate level of management review.
  - (e) ~~Accompaniment of~~Review indicates not all inspectors are accompanied by supervisors ~~is performed nonsystematically on an annual basis.~~
  - (f) Followup actions to inspection findings are ~~often~~ not always timely.
3. Unsatisfactory
- (a) ReviewIMPEP inspector accompaniments indicate that most inspectors were not knowledgeable of the requirements for license type being inspected, and failed to identify potential health and safety, and/or security concerns.
  - (b) Inspectors failed to demonstrate proper inspection preparation, technique, and adherence to established inspection procedures.
  - (c) An evaluation of inspection casework indicates that inspections frequently fail to address potentially important health and safety concerns or it indicates chronic problems exist with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.
  - (d) Supervisors infrequently accompany inspectors. Adequate procedures are not in place to support the inspection program.
  - (e) Inspector accompaniments are not performed on an annual basis.
  - (f) 1Followup actions to inspection findings are ~~often~~ not timely and /or not appropriate.
4. 1Category N-
- This category is not applicable.*

**D.—Common Performance Indicator 4—Technical Quality of Licensing Actions**

1. Satisfactory

(a) ~~Review of completed licenses and a representative sample~~ Evaluation of licensing casework indicates that license reviews are generally thorough, complete, consistent, and of acceptable technical quality.

(b) ~~Health~~ In all cases involving risk significant activities, licensing actions adequately address health and safety issues are properly addressed.

(c) The majority of all other licensing actions adequately address health and safety issues.

(d) License reviewers have the proper signature authority for the cases they review independently.

(e) Special license tie-down conditions are ~~usually~~ stated clearly and are inspectable.

(f) Deficiency letters and emails clearly state regulatory positions and are used at the proper time.

(g) Reviews of renewal applications demonstrate thorough analysis of a licensee's inspection and enforcement history.

(h) Applicable guidance documents are available to reviewers and are followed. ~~(g)~~

2. Satisfactory, But Needs Improvement

(a) Evaluation of licensing casework 1 ~~Review indicates that some licensing actions do not fully address health and safety and security concerns or;~~

(b) Evaluation of licensing casework indicates repeated examples of 1 ~~problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.~~

3. Unsatisfactory

(a) ~~Review indicates that~~ In any licensing action involving risk significant activities, safety and security issues are not adequately addressed;

(b) For other licensing actions, licensing actions reviewed frequently fail to address important health and safety concerns or and security issues;

(c) Evaluation of casework indicates chronic problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.-

5. ~~Category N~~

*~~This category is not applicable.~~*

~~(d) Licenses are signed by reviewers that do not have proper signature authority for the cases they review independently.~~

**E. Common Performance Indicator 5—Technical Quality of Incident and Allegation Activities**

1. Satisfactory

(a) Incident response and allegation procedures are ~~in place and followed in nearly all cases developed, implemented, and maintained.~~

~~(a) Actions taken are appropriate, well-coordinated, and timely in most instances.~~

~~(b) Level of effort is usually commensurate with potential health and safety significance of an incident; or allegation, including on-site investigation of incidents~~

~~(c) Actions taken are appropriate, well-coordinated, and timely in all cases involving significant health and safety issues and in the majority of all other cases.~~

(d) Investigative procedures are appropriate for ~~an~~ the type of incident ~~or allegation.~~

(e) ~~1~~Corrective (enforcement or other) actions are adequately identified to licensees promptly, and appropriate followup measures are taken to ensure prompt compliance.

(f) ~~Responses to incidents and allegations are conducted by inspectors knowledgeable of the license type, and health and safety concerns identified~~

~~(g) Followup inspections are scheduled and completed, if necessary.~~

~~(h) Notification~~Notifications to NMSS, STP, the Office of NRC Headquarters Operations Center, Nuclear Security and Incident Response (NSIR), Material Events Database (NMED) and others, as appropriate, is ~~usually~~ performed in a timely fashion.

~~(i) Results of allegation investigations are provided to allegers and alleger identities are protected.~~

2. Satisfactory, But Needs Improvement

(a) Incident response and allegation procedures are in place ~~but occasionally are not and~~ practiced in a detailed fashion ~~in all cases involving significant health and safety issues, and/or but not in the majority of all other cases.~~

(b) Performance is marginal in terms of resolving potential public health and safety issues but not as well coordinated, complete, or timely as would be required under the "Satisfactory" performance standard.-

- (c) ~~Infrequent failure~~ On-site investigations of incidents are not always performed, when appropriate.
- (d) Timely notification to notify NMSS, STP, NSIR, the NRC Headquarters Operations Center, NMED, and others, as appropriate, of incidents occurs for all incidents involving significant health and safety issues, and/or for the majority of all other incidents.
- (e) Results of allegation investigations are not always provided to allegers and allegers identities are protected.

3. Unsatisfactory

- (a) Review indicates ~~frequent~~ several examples of incident or/ allegation response to ~~incidents or allegations to~~ be incomplete, inappropriate, poorly coordinated, or not timely; in any case involving significant health and safety issues and/or a majority of all other cases. As a result, potential health and safety problems persist.
- (b) Untimely or lack of notification to the NRC Headquarters Operations Center, NMED, 1Failure to notify NMSS, STP, NSIR, and others, as appropriate, in any case involving significant health and safety issues and/or a majority of incidents, all other cases..

6. ~~1Category N~~

~~*This category is not applicable.*~~

- ~~(e)~~ Results of allegation investigations are often not provided to allegers and allegers identities are not protected.

**F. Non-Common Performance Indicator 1—Compatibility Requirements Legislation, Regulations, and other Program Elements**

1. Satisfactory

- (a) State statutes authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the agreement.
- (b) The statutes authorize the State to promulgate regulatory requirements necessary to provide reasonable assurance of protection of public health and safety.
- (c) The State is authorized through its legal authority to license, inspect, and enforce legally binding requirements such as regulations and licenses.
- (d) State statutes are consistent with Federal statutes, as appropriate.



- 
- (e) The State has existing legally enforceable measures, such as generally applicable rules, license provisions, or other appropriate measures, necessary to allow the State to ensure adequate protection of public health and safety in the regulation of agreement material.
  - (f) The State has ~~adopted~~compatible legally binding requirements, regulations, and other program elements in accordance with 1Management Directive (MD) 5.9, "Adequacy and Compatibility of Program Elements for Agreement State Programs," and the current revisions of 1STPNMSS Procedures SA-201, "Review of State Regulatory Requirements," and SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements," ~~with only minor discrepancies in effect.~~
  - (g) NRC regulations that should be adopted by an Agreement State for purposes of compatibility or health and safety are ~~adopted in a time frame so that the effective date of the State requirement is not later than effect~~ within 3 years after the effective date of the NRC's final rule or as approved by the Commission.
  - (h) Other program elements that have been designated as necessary for maintenance of an adequate and compatible program ~~should be~~are adopted and implemented by an Agreement State within 6 months of such designation by NRC.
2. 1Satisfactory, But Needs Improvement
- (a) The State has adopted legally binding requirements, regulations, and other program elements in accordance with MD 5.9 and the current revisions of STPNMSS Procedures SA-201 and SA-200, but there are gaps or conflicts created in the National Material Program due to compatibility or health and safety discrepancies that need to be addressed.
  - (b) Several NRC regulations that should be adopted by an Agreement State are ~~adopted~~not in ~~a time frame such that the effective date of the State requirement is more than effect~~ within 3 years after the effective date of NRC's final rule.-
  - (c) Several program elements that have been designated as necessary for maintenance of an adequate and compatible program have been adopted and implemented by the 1Agreement State in a time frame greater than 6 months after such designation by NRC.
3. 1Unsatisfactory
- (a) The State no longer has statutes that authorize it to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the agreement.
  - (b) The State is not authorized through its legal authority to license, inspect, or enforce legally binding requirements, such as regulations and licenses.

- (c) State statutes are in conflict with, or do not sufficiently reflect, the scope of Federal statutes.
- (d) The State does not have existing legally enforceable measures, such as generally applicable rules, license provisions, or other appropriate measures, necessary to allow the State to ensure adequate protection of public health and safety in the regulation of agreement material.
- (e) The State has not adopted ~~significant~~ legally binding requirements, regulations, and other program elements in accordance with MD 5.9 and the current revisions of ~~STPNMSS~~ Procedures SA-201 and SA-200 that created gaps or conflicts in the National Material Program.
- (f) ~~Most~~A majority of NRC regulations that should be adopted by an Agreement State during the review period are consistently adopted in a time frame so that the effective date of the State requirement is significantly greater (more (many months or years than a year late)) than 3 years after the effective date of the NRC's final rule.
- (g) Most program elements that have been designated "as necessary" for maintenance of an adequate and compatible program have been adopted and implemented by the Agreement States in a time frame significantly greater (more (many than six 1 months or years late)) than 6 months after such designation by the NRC.

7. ~~1~~Category N-

*~~This category is not applicable.~~*

**~~G.~~Non-Common Performance Indicator 2—Sealed Source and Device Evaluation Program**

8. ~~Technical Staffing and Training-~~

~~1—Satisfactory~~

- (a) The technical reviews are performed by staff with proper training and qualifications.
- (b) Qualification criteria for reviewers are established, implemented, and documented.

~~Satisfactory, But Needs Improvement-~~

- ~~(a) Some reviewers do not have the proper qualifications and training.~~

~~3.—Unsatisfactory-~~

- ~~(a) Technical review of the reviewer's evaluation is either not performed or not performed by management or staff having proper qualifications and training.~~

~~(a) Category N-~~

~~Special conditions exist that provide adequate justification for not conducting an evaluation and providing a rating for this subelement. For example, cases in which an Agreement State may have currently sealed source and device (SS&D) evaluation-~~

~~authority but is not performing any SS&D reviews. In such cases, the program should commit in writing to having an SS&D evaluation program in place (as described in Section (C)(2) of Part II) before performing evaluations.~~

~~1~~ Technical Quality of the Product Evaluation Program

- ~~(b) Satisfactory~~
- ~~(c)~~ Review of a representative sample of SS&D evaluations completed during the review period indicates that product evaluations are thorough, complete, consistent, of acceptable technical quality, and adequately address the integrity of the products under normal conditions of use and likely accident conditions.
- (d) Health and safety issues are properly addressed.
- (e) Registrations clearly summarize the product evaluation and provide license reviewers with adequate information in order to license possession and use of the product.
- (f) Deficiency letters clearly state regulatory positions and are used at the proper time.
- (g) A concurrence review of each application and proposed certificate of registration is performed by a second qualified reviewer or supervisor, and the record indicated that the second reviewer concurs on the finding that the product is acceptable for licensing purposes.
- (h) Applicable guidance documents are followed, unless approval to use alternate procedures is obtained from management.
- (i) Completed registration certificates, and the status of obsolete registration certificates, are clear and are promptly transmitted to NRC, Agreement States, and others, as appropriate.
- (j) Reviewers ~~1Reviewers~~ ensure that registrants have developed and implemented adequate quality assurance and control programs.
- (k) ~~1~~There is a means for enforcing commitments made by registrants in their applications and referenced in the registration certificates by the program.-

~~(c) Satisfactory, But Needs Improvement~~

~~(#)~~ The SS&D evaluation program routinely evaluates the root causes of defects and incidents involving SS&D evaluations and takes appropriate actions, including modifications of SS&D sheets and notification of NRC, Agreement States, and others, as appropriate.

2. Satisfactory, But Needs Improvement

- (b) Some reviewers do not have the proper qualifications and training.
- (c) Review indicates that some SS&D evaluations do not fully address important health and safety concerns or indicates repeated examples of problems with respect to thoroughness, completeness, consistency, clarity, technical quality, adherence to existing guidance in product evaluations, and addressing the integrity of the products.

- (d) Not all registrations clearly summarize the product evaluation and not all provide license reviewers with adequate information in order to license possession and use of the product.
- (e) Reviewers do not follow all appropriate guidance documents.
- (f) The initial and concurrence reviews are not always performed by persons with adequate training.
- (g) Completed registration certificates, and the status of obsolete registration certificates, are not always clear or are not always promptly transmitted to the NRC, Agreement States, and others, as appropriate.
- (h) Not all product evaluations include an evaluation of proposed quality assurance and control programs.
- (i) 1Commitments made by registrants in their applications, and referenced in the registration certificates, cannot be enforced for all registrations.-
- (j) The SS&D evaluation program does not fully evaluate the root causes of all defects and incidents involving SS&D evaluations, or when performed, the programs do not always take appropriate actions, including notification of NRC, Agreement States, and others, as appropriate.

#### 4. Unsatisfactory

- (b) Technical review of the reviewer's evaluation is either not performed or not performed by management or staff having proper qualifications and training.
- (d) ~~Unsatisfactory~~
- ~~(c)~~ Review indicates that SS&D evaluations **frequently** fail to address important health and safety concerns or indicates chronic problems with respect to thoroughness, completeness, consistency, clarity, technical quality, adherence to existing guidance in product evaluations, and adequately addressing the integrity of the products.
- (d) Registrations **often** do not clearly summarize the product evaluation and do not provide license reviewers with adequate information in order to license possession and use of the product.
- (e) Reviewers **often** do not follow appropriate guidance documents.
- (f) The initial and concurrence reviews are ~~often~~ not performed by persons with adequate training.
- (g) Completed registration certificates, and the status of obsolete registration certificates, are unclear and are not promptly transmitted to the NRC, Agreement States, and others, as appropriate.
- (h) Product evaluations **often** do not include an evaluation of proposed quality assurance and control programs.
- (i) ~~1~~Commitments made by registrants in their applications, and referenced in the registration certificates, **often** cannot be enforced.

(j) The review has identified potentially significant health and safety issues linked to a specific product evaluation.

(e) ~~Category N-~~

~~Special conditions exist that provide adequate justification for not conducting an evaluation and providing a rating for this subelement. For example, cases in which an Agreement State currently may have SS&D evaluation authority but is not performing any SS&D reviews. In such cases, the program should commit in writing to having an SS&D evaluation program in place (as described in Section (C)(2) of Part II) before performing evaluations.~~

~~9.—Evaluation of Defects and Incidents Regarding SS&Ds~~

~~(a) Satisfactory~~

~~(m) The SS&D evaluation program routinely evaluates the root causes of defects and incidents involving SS&D evaluations and takes appropriate actions, including modifications of SS&D sheets and notification of NRC, Agreement States, and others, as appropriate.~~

~~(b) Satisfactory, But Needs Improvement~~

~~The SS&D evaluation program does not fully evaluate the root causes of all defects and incidents involving SS&D evaluations, 1or when performed, the programs do not always take appropriate 1actions, including notification of NRC, Agreement States, and others, as appropriate.~~

~~(c) Unsatisfactory~~

~~(k) The SS&D evaluation program does not ensure evaluation of the root causes of defects and incidents involving SS&D evaluations, or if performed, does not ensure appropriate actions are taken, including notification of NRC, Agreement States, and others, as appropriate.~~

#### Category

#### 5. Rating N-

Special conditions exist that provide adequate justification for not conducting an evaluation and providing a rating for this subelement. For example, cases in which an Agreement State currently may have SS&D evaluation authority but is not performing any SS&D reviews. In such cases, the program should commit in writing to having an SS&D evaluation program in place (as described in Section (C)(2) of Part II) before performing evaluations.

**H. Non-Common Performance Indicator 3—Low-Level Radioactive Waste Disposal Program**

~~10. Technical Staffing and Training~~

~~1. Satisfactory~~

~~(i) 1Review indicates that the qualifications of the technical staff are commensurate with expertise identified as necessary to regulate a low-level radioactive waste disposal facility, and consistent with the State's training and qualification program.~~

~~(ii) 1The management has developed and implemented a training program for staff.~~

~~(iii) Staffing trends that could have an adverse impact on the quality of the program are tracked, analyzed, and addressed. 1Review indicates that the qualifications of the technical staff are commensurate with expertise identified as necessary to regulate a low-level radioactive waste disposal facility and consistent with the State's training and qualification program.~~

~~(iv) 1The management has developed and implemented a training program for staff.~~

~~(v) Staffing trends that could have an adverse impact on the quality of the program are tracked, analyzed, and addressed.~~

~~(a) Satisfactory, But Needs Improvement~~

~~(i) There is some staff turnover that could adversely impact the low-level radioactive waste disposal program.~~

~~(b) Some vacant positions are not readily filled.~~

~~(c) There is some evidence of lack of management attention or action to deal with staffing problems.~~

~~(d) Some of the licensing and inspection personnel in the low-level radioactive waste disposal program are not making prompt progress in completing all of the training and qualification requirements.~~

~~(e) The training and qualification standards include areas that could be improved.~~

~~(ii) Some of the new staff is hired with little education or experience in physical and/or life sciences; materials licensing and inspection; civil or mechanical engineering; geology, hydrology, and other earth sciences; and environmental science.~~

~~(b) 1Unsatisfactory~~

~~(i) There is significant staff turnover relative to the size of the program.~~

~~(f) Most vacant positions are not filled for extended periods.~~

~~(g) There is little evidence of management attention or actions to deal with staffing problems.~~

~~(h) Most of the licensing and inspection personnel are not making prompt progress in completing all of the training and qualification requirements.~~

~~(i) New staff members are hired without having education or experience in physical and/or life sciences; materials licensing and inspection; civil or mechanical engineering; geology, hydrology, and other earth sciences; and environmental science.~~

~~(c) Category N~~

~~Special conditions exist that provide adequate justification for not conducting an evaluation and providing a rating for this subelement. For example, NRC has not required Agreement States to have a program for licensing a low-level radioactive disposal facility until such time as the State has been designated as a host State for such a facility. When an Agreement State has been notified or becomes aware of the need to regulate a low-level radioactive disposal facility, it is expected to put in place a regulatory program as described in Section (C)(3) of Part II.~~

#### ~~11. 1Status of Low-Level Radioactive Waste Disposal Inspection~~

~~(a) Satisfactory~~

~~(i) Low-level radioactive waste disposal licensees are inspected at regular intervals in accordance with frequencies prescribed in NRC Inspection Manual, Chapter 2800.~~

~~(ii) Deviations from these schedules are normally coordinated between working staff and management. Deviations from these schedules are normally coordinated between working staff and management.~~

~~The inspection findings are communicated to licensees in a timely manner (30 calendar days as specified in NRC Inspection Manual, Chapter 0610). within 30 days, or 45 days for a team inspection.~~

~~(iii) All nonoperational phase inspections are conducted at the State's prescribed frequency.~~

~~(b) Satisfactory, But Needs Improvement~~

~~(j) The licensee is inspected at intervals that exceed the NRC Inspection Manual, Chapter 2800, frequency by more than 25 percent.~~

~~(k) All nonoperational phase inspections are conducted at intervals that exceed the State frequencies by more than 25 percent.~~

~~(l) Some of the inspection findings are delayed or are not communicated to licensees within 30 days.~~

~~(c) 1 Unsatisfactory~~

~~(m) The licensee is inspected at intervals that exceed the NRC Inspection Manual, Chapter 2800, frequency by more than 100 percent.~~

~~(n) Nonoperational phase inspections are conducted at intervals that exceed the State frequencies by more than 100 percent.~~

~~(o) Most inspection findings are frequently delayed.~~

~~(d) Category N~~

~~Special conditions exist that provide adequate justification for not conducting an evaluation and providing a rating for this subelement. For example, NRC has not required Agreement States to have a program for licensing a low-level radioactive disposal facility until such time as the State has been designated as a host State for such a facility. When an Agreement State has been notified or becomes aware of the need to regulate a low-level radioactive disposal facility, it is expected to put in place a regulatory program as described in Section (C)(3) of Part II.~~

#### ~~12. Technical Quality of Inspections~~

~~(a) Satisfactory~~

~~(i) Review team members accompanying inspectors combined with an onsite review of completed inspection files indicate 1 inspection findings are usually well founded and well documented throughout the assessment period.~~

(ii) 1A review of inspector field notes or completed reports, as appropriate, indicates that ~~most~~ inspections are complete and reviewed promptly by supervisors or management.

(iii) Procedures are in place and ~~normally used~~ are implemented to help identify root causes and poor licensee performance.

(iv) ~~In most instances, followup~~ Followup inspections address previously identified open items and/or past violations.

~~Inspection findings generally~~ lead to appropriate and prompt regulatory action.

Supervisors accompany ~~nearly~~ all inspectors on an annual basis.-

~~(b) Satisfactory, But Needs Improvement~~

~~(v) Review indicates that low-level radioactive waste disposal inspections do not fully address potentially important health and safety concerns or it indicates periodic problems with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.~~



~~(l) Review indicates that findings in inspection reports and inspection files are, on occasion, not well founded or well documented.~~

~~(m) The review does not demonstrate an appropriate level of management review.~~

~~(i) Accompaniments of inspectors by supervisors are performed nonsystematically.~~

~~(ii) Followup actions to inspection findings are often not timely.~~

~~(c) Unsatisfactory~~

~~(i) Review indicates that inspections (including construction phase and closure/monitoring phase) frequently fail to address potentially important health and safety concerns or it indicates chronic problems exist with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.~~

~~(ii) Accompaniments of inspectors are infrequently performed.~~

~~(iii) Followup actions to inspection findings are often not timely and appropriate.~~

~~(d) Category N~~

~~Special conditions exist that provide adequate justification for not conducting an evaluation and providing a rating for this subelement. For example, NRC has not required Agreement States to have a program for licensing a low level radioactive disposal facility until such time as the State has been designated as a host State for such a facility. When an Agreement State has been notified or becomes aware of the need to regulate a low level radioactive disposal facility, it is expected to put in place a regulatory program as described in Section (C)(3) of Part II.~~

### ~~13. 1~~ Technical Quality of Licensing Actions

~~(a) Satisfactory~~

Prelicensing interactions with the applicant are occurring on a regular basis.

Special license tie-down conditions are ~~usually~~ stated clearly and are inspectable.

Deficiency letters clearly state regulatory positions and are used at the proper time.

Reviews of amendments and renewal applications demonstrate thorough analysis of a licensee's inspection and enforcement history, if applicable.

Applicable guidance documents are available to reviewers ~~in most cases~~ and are ~~generally followed~~ implemented.

Public hearings in accordance with the State administrative laws have occurred.

Review of certain technical aspects of the low-level radioactive waste license files indicates that ~~aspect of~~ the license review is ~~generally~~ thorough, complete, consistent, and of acceptable technical quality.

Health and safety issues are properly addressed.

An evaluation of the license review process indicates that the process is thorough and consistent.

~~(b) 1Satisfactory, But Needs Improvement~~

~~(i) Review indicates that some technical aspects of licensing do not fully address health and safety concerns or indicates problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.~~

~~(ii) Some aspects of the public hearings are not consistent with State administrative law or do not address some aspects of the licensing of a low-level radioactive waste disposal facility.~~

~~(c) Unsatisfactory~~

~~(p) Review indicates that technical aspects of the licensing actions frequently fail to address important health and safety concerns or indicates chronic problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.~~

~~(q) Public hearings are not consistent with State administrative law or fail to address aspects of the licensing of a low-level radioactive waste disposal facility.~~

~~(d) Category N~~

~~Special conditions exist that provide adequate justification for not conducting an evaluation and providing a rating for this subelement. For example, NRC has not required Agreement States to have a program for licensing a low-level radioactive disposal facility until such time as the State has been designated 1as a host State for such a facility. When an Agreement State has been notified or becomes aware of the need to regulate a low-level 1radioactive disposal facility, it is expected to put in place a regulatory program as described in Section (C)(3) of Part II.~~

~~14. Technical Quality of Incident and Allegation Activities~~

~~(a) Satisfactory~~

Meets "Satisfactory" performance for common performance indicator criteria, Section (E)(1) of this part, as applied to the technical quality of incident and allegation activities subelement for the low-level radioactive waste disposal program.

2. Satisfactory, But Needs Improvement

- (a) Some vacant positions are not readily filled.
- (b) There is some evidence of lack of management attention or action to deal with staffing problems.
- (c) Some of the licensing and inspection personnel in the low-level radioactive waste disposal program are not making prompt progress in completing all of the training and qualification requirements.
- (d) The training and qualification standards include areas that could be improved.
- (e) Some of the new staff is hired with little education or experience in physical and/or life sciences; materials licensing and inspection; civil or mechanical engineering; geology, hydrology, and other earth sciences; and environmental science.
- (f) The licensee is inspected at intervals that exceed the NRC Inspection Manual, Chapter 2800, frequency by more than 25 percent.
- (g) All nonoperational phase inspections are conducted at intervals that exceed the State frequencies by more than 25 percent.
- (h) Some of the inspection findings are delayed or are not communicated to licensees within 30 days.
- (i) Review indicates that low-level radioactive waste disposal inspections do not fully address potentially important health and safety concerns or it indicates periodic problems with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.
- (n) Review indicates that findings in inspection reports and inspection files are, on occasion, not well founded or well documented.
- (o) The review does not demonstrate an appropriate level of management review.
- (p) 1Accompaniments of inspectors by supervisors are performed non-systematically and not always annually for all inspectors.
- (q) Followup actions to inspection findings are often not timely.
- (r) Review indicates that some technical aspects of licensing casework do not fully address safety and security concerns.
- (s) Review of licensing casework indicates problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.

(t) Meets "Satisfactory, But Needs Improvement" performance for common performance indicator criteria, Section (E)(2) of this part, as applied to the technical quality of incident and allegation activities subelement for the low-level radioactive waste disposal program.

3. Unsatisfactory

(a) There is significant staff turnover relative to the size of the program which causes performance issues under this indicator.

(b) Most vacant positions are not filled for extended periods which causes performance issues under this indicator.

(c) There is little evidence of management attention or actions to deal with staffing problems.

(d) Most of the licensing and inspection personnel are not making prompt progress in completing all of the training and qualification requirements.

(e) New staff members are hired without having education or experience in physical and/or life sciences; materials licensing and inspection; civil or mechanical engineering; geology, hydrology, and other earth sciences; and environmental science.

(f) The licensee is inspected at intervals that exceed the NRC Inspection Manual, Chapter 2800, frequency by more than 100 percent.

(g) Nonoperational phase inspections are conducted at intervals that exceed the State frequencies by more than 100 percent.

(h) Most inspection findings are frequently delayed.

(i) Review indicates that inspections fail to address potentially important health and safety concerns or it indicates chronic problems exist with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.

(j) Accompaniments of inspectors are not performed annually for all inspectors.

(k) Followup actions to inspection findings are not timely and appropriate.

(l) Review indicates that technical aspects of the licensing actions fail to address important safety and security concerns.

(m) Review of licensing casework indicates chronic problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.

- (n) Public hearings are not consistent with State administrative law or fail to address aspects of the licensing of a low-level radioactive waste disposal facility.
- (o) Meets "Unsatisfactory" performance for common performance indicator criteria, Section (E)(3) of this part, as applied to the technical quality of incident and allegation activities subelement for the low-level radioactive waste disposal program.

4. CategoryRating N

Special conditions exist that provide adequate justification for not conducting an evaluation and providing a rating for this subelement. For example, NRC has not required Agreement ~~1~~States to have a program for licensing a low-level radioactive disposal facility until such time as the State has been designated ~~1~~States to have a program for licensing a low-level radioactive disposal facility until such time as the State has been designated ~~1~~ as a host State for such a facility. When an Agreement State has been notified or becomes aware of the need to regulate a low-level radioactive disposal facility, it is expected to put in place a regulatory program as described in Section (C)(3) of Part II. -

I. **Non-Common Performance Indicator 4—Uranium Recovery Program**

15. Technical Staffing and Training-

~~1.~~ Satisfactory

- (a) Review indicates that the qualifications of the technical staff are commensurate with expertise identified as necessary to regulate uranium recovery facilities. and consistent with the State's training and qualification program.
- (b) The management has developed and implemented a training program for staff. -
- (c) Staffing trends that could have an adverse impact on the quality of the program are tracked, analyzed, and addressed.

(a) Satisfactory, But Needs Improvement-

~~There is some staff turnover, which adversely impacts the uranium recovery program.-~~

- (a) Some vacant positions, necessary for continued program effectiveness, are not readily filled.
- ~~(b) 1There is some evidence of lack of management attention or action to deal with staffing problems.-~~
- ~~(c) 1Some of the uranium recovery licensing and inspection personnel are not making prompt progress in completing all of the training and qualification requirements.-~~
- ~~(d) The training and qualification standards include areas that could be improved.-~~

~~(i) Some of the new staff are hired with little education or experience in physical and/or life sciences; materials licensing and inspection; civil or mechanical engineering; geology, hydrology, and other earth sciences; and environmental science.~~

~~(b) Unsatisfactory~~

~~(i) There is significant staff turnover relative to the size of the program.~~

~~(a) Most vacant positions are not filled for extended periods.~~

~~(b) There is little evidence of management attention or action to deal with staffing problems.~~

~~(ii) Training program is not in place.~~

~~(iii) Most of the licensing and inspection personnel are not making prompt progress in completing all of the training and qualification requirements.~~

~~(iv) New staff members are hired without having education or experience in physical and/or life sciences; materials licensing and inspection; civil or mechanical engineering; geology, hydrology, and other earth sciences; and environmental science.~~

~~(c) Category N~~

~~This category is not applicable.~~

#### ~~16. Status of Uranium Recovery Inspection Program~~

~~(a) Satisfactory~~

~~(d) Uranium recovery licensees are inspected at regular intervals in accordance with frequencies prescribed in NRC Inspection Manual, Chapters 2801 and 2600.~~

~~(e) Deviations are generally the result of decisions that consider the risk of licensee operation, past licensee performance, and the need to temporarily defer the inspection(s) to address more urgent or more critical priorities.~~

~~(f) There is a plan to reschedule any missed or deferred inspections on a basis established for not rescheduling.~~

~~(g) Inspection findings are communicated to licensees at the exit briefings and confirmed formally in writing in a timely manner (30 calendar days as specified in NRC Inspection Manual, Chapter 0610). 30 days, or 45 days for a team inspection.~~

~~(e) Satisfactory, But Needs Improvement~~

~~(f) The licensees are inspected at intervals that exceed the NRC Inspection Manual, Chapter 2801, frequencies for conventional uranium mills or the NRC Inspection Manual, Chapter 2600, frequencies for in-situ leach facilities by more than 25 percent.~~

~~(g) Some of the inspection findings are delayed or not communicated to licensees within 30 days.~~

~~(c) Unsatisfactory~~

~~(d) The licensees are inspected at intervals that exceed the NRC Inspection Manual, Chapter 2801, frequencies for conventional uranium mills or NRC Inspection Manual, Chapter 2600, frequencies for in-situ leach facilities by more than 100 percent.~~

~~(i) Inspection findings are frequently delayed.~~

~~(b) Category N~~

~~This category is not applicable.~~

#### ~~17. Technical Quality of Inspections~~

~~(a) Satisfactory~~

~~(i) Review team members accompanying inspectors combined with an onsite review of a representative cross-section of completed inspection files indicates inspection findings are usually well founded and well documented throughout the assessment period.~~

~~(h) Licensing history and status are incorporated into the inspection program as demonstrated through accompaniments and procedures in place.~~

(i) 1A review of inspector field notes or completed reports indicates that **most** inspections are complete and reviewed promptly by supervisors or management.

(ii) Procedures are in place and **normally used implemented** to help identify root causes and poor licensee performance.

~~(j) In most instances, followup Followup inspections address previously identified open items and/or past violations.~~

(k) ~~Inspection findings generally~~**Findings** lead to appropriate and prompt regulatory action.

(l) Supervisors accompany **nearly** all inspectors on an annual basis.

~~(b) Satisfactory, But Needs Improvement~~

~~(h) Review indicates that uranium recovery inspections occasionally do not address potentially important health, safety, and environmental concerns or it indicates periodic problems with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.~~

~~(i) Review indicates that findings in inspection reports and inspection files are, on occasion, not well founded or well documented, and the review does not demonstrate an appropriate level of management review.~~

~~(i) Accompaniment of inspectors by supervisors is performed nonsystematically.~~

~~(ii) <sup>1</sup>Followup actions to inspection findings are often not timely.~~

~~(c) Unsatisfactory~~

~~(i) Review indicates that uranium recovery inspections frequently fail to address potentially important health, safety, and environmental concerns or it indicates~~

~~chronic problems exist with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.~~  
~~(ii) Accompaniments of inspectors are infrequently performed.~~  
~~(iii) Followup actions to inspection findings are often not timely and appropriate.~~

~~(d) Category N~~

~~This category is not applicable.~~

~~18. Technical Quality of Licensing Actions~~

~~(a) Satisfactory~~

- ~~(m)~~ Review of completed licenses and a representative sample of licensing files indicates that license reviews are generally thorough, complete, consistent, and of acceptable technical quality.
- (n) Health, safety, and environmental issues are properly addressed.
- (o) License reviewers **almost always** have the proper signature authority for the cases they review.
- (p) Special license tie-down conditions are **usually** stated clearly and are inspectable.
- (q) Deficiency letters clearly state regulatory positions and are used at the proper time.
- (r) Reviews of renewal applications demonstrate thorough analysis of a licensee's inspection and enforcement history.
- (s) Applicable guidance documents are available to reviewers **in most cases** and are **generally** followed.

~~(b) Satisfactory, But Needs Improvement~~

~~Review indicates that some licensing actions do not fully address health, safety, and environmental concerns or indicates repeated examples of problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.~~

~~(c) Unsatisfactory~~

~~Review indicates that licensing actions frequently fail to address important health, safety, and environmental concerns or indicates chronic problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.~~

~~(d) Category N~~

~~This category is not applicable.~~

~~19. Technical Quality of Incident and Allegation Activities~~

~~(a) Satisfactory~~



~~(t)~~—Meets "Satisfactory" performance for common performance indicator criteria, Section (E)(1) of this part, as applied to the technical quality of incident and allegation activities subelement for the uranium recovery program.

(b) ~~Satisfactory~~Satisfactory, But Needs Improvement

~~2.—~~ , but needs improvement

- (j) Some vacant positions, necessary for continued program effectiveness, are not readily filled.
- (k) 1There is some evidence of lack of management attention or action to deal with staffing problems.
- (l) 1Some of the uranium recovery licensing and inspection personnel are not making prompt progress in completing all of the training and qualification requirements.
- (m) The training and qualification standards include areas that could be improved.
- (n) Some of the new staff are hired with little education or experience in physical and/or life sciences; materials licensing and inspection; civil or mechanical engineering; geology, hydrology, and other earth sciences; and environmental science.Satisfactory, But Needs Improvement
- (o) The licensees are inspected at intervals that exceed the NRC Inspection Manual, Chapter 2801, frequencies for conventional uranium mills or the NRC Inspection Manual, Chapter 2600, frequencies for in situ leach facilities by more than 25 percent.
- (p) Some of the inspection findings are delayed or not communicated to licensees within 30 days.
- (q) Review indicates that uranium recovery inspections occasionally do not address potentially important health, safety, and environmental concerns or it indicates periodic problems with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.
- (r) Review indicates that findings in inspection reports and inspection files are, on occasion, not well founded or well documented, and the review does not demonstrate an appropriate level of management review.
- (s) Some accompaniments of inspectors by supervisors are not performed annually.
- (t) 1Followup actions to inspection findings are often not timely.
- (u) Review of licensing casework indicates that some technical aspects of licensing casework do not fully address health and safety and security concerns.
- (v) Review of licensing casework or indicates problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.
- (w) Meets "Satisfactory, But Needs Improvement" performance for common performance indicator criteria, Section (E)(2) of this part, as applied to the technical quality of incident and allegation activities subelement for the uranium recovery program.-

(c) ~~Unsatisfactory~~

~~3.—Unsatisfactory~~

- ~~(e) There is significant staff turnover relative to the size of the program which results in performance issues under this indicator.~~
  - ~~(f) Most vacant positions are not filled for extended periods which causes performance issues under this indicator.~~
  - ~~(g) There is little evidence of management attention or action to deal with staffing problems.~~
  - ~~(h) Training program is not developed or implemented.~~
  - ~~(i) Licensing and inspection personnel are not making prompt progress in completing all of the training and qualification requirements.~~
  - ~~(j) New staff members are hired without having education or experience in physical and/or life sciences; materials licensing and inspection; civil or mechanical engineering; geology, hydrology, and other earth sciences; and environmental science. Review team members accompanying inspectors combined with an onsite review of a representative cross-section of completed inspection files indicates inspection findings are well founded and well documented throughout the assessment period.~~
  - ~~(k) The licensees are inspected at intervals that exceed the NRC Inspection Manual, Chapter 2801, frequencies for conventional uranium mills or NRC Inspection Manual, Chapter 2600, frequencies for in situ leach facilities by more than 100 percent.~~
  - ~~(l) Inspection findings are delayed.~~
  - ~~(m) Review indicates that uranium recovery inspections fail to address potentially important health, safety, and environmental concerns or it indicates chronic problems exist with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency.~~
- ~~Accompaniments of inspectors are not performed.~~
- ~~(n) Followup actions to inspection findings are not timely and appropriate.~~
  - ~~(o) Review of licensing casework indicates that technical aspects of the licensing actions frequently fail to address important health and safety and security concerns.~~
  - ~~(p) Review of licensing casework indicates chronic problems with respect to thoroughness, completeness, consistency, clarity, technical quality, and adherence to existing guidance in licensing actions.~~
  - ~~(q) Meets "Unsatisfactory" performance for common performance indicator criteria, Section (E) (3) of this part, as applied to the technical quality of incident and allegation activities subelement for the uranium recovery program.~~

~~Category~~

~~4. Rating N-~~

~~This category is not applicable.~~

~~B.—Non-Common Performance Indicator 5—Regional Fuel Cycle Inspection Program~~

~~1. Technical Staffing and Training~~

~~(a) Satisfactory~~

~~1Review indicates implementation of a well conceived and balanced staffing strategy throughout the assessment period and 1demonstrates the qualifications of the technical staff. This balanced staffing strategy is indicated by the presence of most of the following features:~~

- ~~(i) Prompt management attention and review to recognize staffing or training problems (e.g., high rates of attrition, positions being vacant for extended periods, lack of adequate training opportunities) and to develop appropriate corrective action plans.~~
- ~~(ii) Qualification criteria for hiring new technical staff have been established and are being followed. Staff would normally be expected to have bachelor's degrees or equivalent training in the physical and/or life sciences. Senior personnel should have additional training and experience beyond their original area of specialization to reflect the broader area of responsibility in their organization.~~
- ~~(iii) Inspectors are trained and qualified in a reasonable time period, despite difficulties that may be encountered in the availability of training opportunities provided by NRC, or of alternative outside training opportunities determined by the Division of Fuel Cycle Safety and Safeguards (FCSS), NMSS, to meet requirements specified in NRC Inspection Manual, Chapter 1246. This means there has been, and continues to be, a clear effort to adhere to the requirements and conditions specified in NRC Inspection Manual, Chapter 1246, and the applicable qualifications journals, or to receive equivalent training elsewhere. Training plans and schedules for qualification are established, maintained, and personally reviewed by the inspector and management.~~
- ~~(iv) 1Management ensures that inspectors avail themselves of opportunities for required training infrequently provided by NRC, or identifies to FCSS alternative outside training opportunities that can be determined by FCSS to meet NRC Inspection Manual, Chapter 1246, requirements, resulting in trainees reaching qualification without undue delays.~~
- ~~(v) Management commitment to training is clearly evident.~~
- ~~(vi) Inspectors are provided cross training opportunities to develop skills necessary to substitute for or assist other inspectors in functional areas outside their normal assignments.~~
- ~~(vii) Inspectors are current with regard to required retraining and refresher training.~~
- ~~(viii) Records are kept to track how training requirements are satisfied for those requiring training, to provide reminders of when refresher training is due, and to provide reliable and accurate statistics on the status of the training program.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) Some unanticipated staff turnover has occurred that could adversely affect the ability of remaining staff to conduct the inspection program, and management has not taken immediate steps to adjust inspection planning accordingly, or begin the process of replacement.~~
- ~~(ii) Some vacant positions have not been readily filled.~~
- ~~(iii) Some evidence of management attention or actions to deal with staffing problems that may have arisen, but a problem still persists.~~
- ~~(iv) Some of the inspection personnel are not making reasonable progress in completing the training (or retraining) and qualification requirements, despite allowing for difficulties in arranging for NRC Inspection Manual, Chapter 1246, required courses infrequently provided by NRC.~~
- ~~(v) Management permits several instances to occur in which inspectors do not avail themselves of opportunities for required training infrequently provided by NRC, resulting in extensions of the time needed for trainees to become qualified.~~
- ~~(vi) The region's training and qualification standards do not completely correspond to functional requirements for inspections.~~
- ~~(vii) Minor difficulties arise when attempting to accurately determine the status of training, retraining, and refresher training requirements and accomplishments for those requiring such training.~~
- ~~(viii) Some of those requiring retraining or refresher training are not current. There is an effort to track and schedule the required training, but there is no documentation to explain why the necessary training has not been provided.~~

~~(c) Unsatisfactory~~

~~Review determines the presence of chronic or acute problems related to some of the following conditions, which cause concerns about their likely impacts on other subelements of this performance indicator:~~

- ~~(i) Significant unanticipated staff turnover relative to the size of the program, the causes of which cannot all be attributed to normal attrition.~~
- ~~(ii) Many vacant positions remain unfilled for extended periods.~~
- ~~(iii) Little evidence is exhibited of management attention or actions to deal with staffing problems found to exist.~~
- ~~(iv) Many of the inspection personnel have not met their schedules for qualification, or met refresher training requirements, falling short of written plans and schedules to do so.~~
- ~~(v) Some opportunities for taking NRC Inspection Manual, Chapter 1246, required training courses infrequently provided by NRC, or alternative outside training opportunities identified by FCSS as meeting such requirements were not attended by inspectors needing such courses for qualification, contributing to failure of inspector trainees to meet established schedules for qualification.~~

- ~~(vi) New staff members are hired without having adequate scientific or technical backgrounds.~~
- ~~(vii) Management is unable to determine within a reasonable time the status of training, retraining, and refresher training for those requiring such training.~~
- ~~(viii) Inadequate or no tracking or scheduling for those requiring retraining or refresher training.~~
- ~~(ix) 1Newly hired inspector trainees are not provided sufficient onsite training experience, or they are not provided proper 1guidance by inspection leaders or supervisors while directly contributing to inspections.~~
- ~~(x) Management consistently withdraws inspection personnel from required training activities to participate in other activities, with the result that established schedules for qualification of inspection personnel are not met. (x)~~

~~(d) Category N~~

~~Special conditions exist that provide adequate justification for withholding a rating. For example, there has been a substantial management effort to deal with staffing problems, or the mission of the organization has changed too rapidly for training programs to adjust. NMSS has been kept informed of the situation, and discernable recent progress is evident.~~

~~2. Status of Fuel Cycle Inspection Program~~

~~(a) Satisfactory~~

- ~~(i) Licensees are inspected at regular intervals in accordance with frequencies prescribed in NRC Inspection Manual, Chapter 2600, with appropriate documented adjustments to reflect licensee performance and the inherent risk of licensee operations.~~
  - ~~• The schedules for facility inspections are appropriately updated and maintained in the fuel cycle master inspection plan.~~
  - ~~• 1The inspections scheduled for each facility are consistent with the requirements of NRC Inspection Manual, Chapter 2600, with appropriate adjustments.~~
  - ~~• 1There are few differences between the inspections planned and scheduled for the current fiscal year and the inspection program currently intended for each facility for the fiscal year.~~
  - ~~• Changes in the fuel cycle master inspection plan are documented when they occur and generally are the result of joint decisions between management and staff in the regions and headquarters.~~
  - ~~• Changes in the region's inspection program for each facility are well documented and primarily based on the inherent risks of licensee~~

*operation, past licensee performance, and the need to address more urgent or more critical priorities or deal with unforeseen resource limitations.*

- ~~(ii) There is evidence that regional management periodically ascertains the status of the inspection program and, when necessary, acts swiftly to resolve problems affecting performance. Management is confident that the existing inspection schedule adequately reflects the region's stated objectives for each facility's inspection program. Management also is aware of the comparison between planned inspections and actual performance of inspections, and is confident that the objectives for each facility's inspection program are being met.~~
- ~~(iii) There is clear evidence of an ongoing process to reschedule any missed or deferred inspections and to optimize the ability to meet the stated objectives.~~
- ~~(iv) The scheduling and performance of inspections optimize the utilization of inspection resources so that inspectors are permitted sufficient time to prepare for and document inspections. The percentage of time inspectors spend on routine inspections, reactive inspections, preparation and documentation, and other programmatic activities is close to that originally planned in accordance with stated objectives. Significant departures from what was originally planned, and the reasons for their occurrence, are documented as they become apparent.~~
- ~~(v) Inspection findings are communicated to licensees in a timely manner (normally within 30 calendar days, or 45 days for team inspections, as specified in NRC Inspection Manual, Chapter 0610, unless there are legitimate documented reasons for delays).~~
- ~~(vi) The region adequately maintains documentation of licensee performance in support of the licensee performance review program.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) Licensees are inspected at greater intervals than specified in NRC Inspection Manual, Chapter 2600, absent timely written documentation of the intention to do so. (i)~~
  - ~~• Objectives for the inspection of some of the region's facilities are not documented in an inspection plan for each facility, or they are not in sufficient detail to adequately express the inspection requirements for each facility in terms of licensee performance or inherent facility risk.~~
  - ~~• The inspections scheduled in the fuel cycle master inspection plan for a facility do not correspond to the objectives previously documented for the facility's inspection program, and the reasons for the discrepancies have not been documented adequately.~~
  - ~~• The inspections scheduled in the fuel cycle master inspection plan for one or more facilities do not reflect the requirements contained in NRC~~

*Inspection Manual, Chapter 2600, and no timely documentation exists to justify the discrepancies.*

- ~~(ii) Reliable documentation regarding the conduct of the region's inspection program cannot be readily produced, and the region cannot confirm within a reasonable time that the inspection program meets the requirements of NRC Inspection Manual, Chapter 2600, or the objectives previously documented for each facility's inspection program.~~
- ~~(iii) Regional management is slow to react to problems affecting performance of planned inspections, with the result that the inspections contained in the fuel cycle master inspection program no longer correspond to the inspection direction needed to focus on changes in licensee performance.~~
- ~~(iv) Some inspectors are underutilized or overutilized for routine inspections to the extent that their onsite inspection hours do not correspond to the region's stated objectives for utilization of inspection resources, with no adequate documentation to justify the discrepancies.~~
- ~~(v) Some of the inspection findings are delayed, or not communicated to licensees within 30 days (45 days for team inspections), without adequate documentation of justification or legitimate reasons for such delays or deletions (as in the case of pending escalated enforcement).~~
- ~~(vi) Documentation in support of the observations required to be formulated for the licensee performance review program does not exist or is not easily located.~~

~~(c) Unsatisfactory~~

- ~~(i) Licensees are inspected at intervals that frequently exceed the NRC Inspection Manual, Chapter 2600, frequencies, irrespective of licensee performance or facility risk, without adequate documentation or justification for such departures.~~
- ~~(ii) Objectives for each facility's inspection program have not been documented or do not adequately consider NRC Inspection Manual, Chapter 2600, requirements, licensee performance, or the inherent risk of licensee operations.~~
- ~~(iii) Management cannot readily demonstrate that the existing regional fuel cycle inspection schedule, in combination with the recent history of completed inspections, support the inspection objectives described in the inspection programs for each facility.~~
- ~~(iv) Inspections of licensees or communications of the inspection findings are frequently delayed, without adequate documentation or justification.~~
- ~~(v) The region does not adequately maintain documentation necessary to document licensee performance in support of the licensee performance review program.~~
- ~~(vi) Observations provided to support the licensee performance review program cannot be supported by existing documentation.~~

~~(d) 1 Category N~~

~~Special conditions exist that provide adequate justification for withholding a rating. For example, an unforeseen event or emergency with significant health and safety consequences may have required a temporary diversion of resources from the core inspection program. However, these programmatic adjustments are well founded and properly coordinated with NMSS management.~~

~~3. Technical Quality of Inspections~~

~~(a) Satisfactory~~

- ~~(i) An onsite review of a representative cross-section of completed inspection files indicates inspection findings are usually well founded and well documented throughout the assessment period.~~
- ~~(ii) A review of completed inspection reports indicates that most inspections are complete, consistent with the requirements of NRC Inspection Manual, Chapter 0610, and reviewed promptly by supervisors or management.~~
- ~~(iii) Inspection efforts focus on the safety or safeguards significance of licensee performance, while maintaining alertness to possible trends and patterns of poor licensee performance. Plant operations addressed and performance areas emphasized correspond closely to the objectives documented for the region's inspection program for the facility.~~
- ~~(iv) In most instances, followup inspections address previously identified open items and/or past violations.~~
- ~~(v) Inspection findings generally lead to prompt and appropriate regulatory action.~~
- ~~(vi) All inspections are conducted or led by qualified NRC inspectors. Contractors and inspector trainees augmenting inspections are provided proper guidance by the inspection leader during onsite inspections, resulting in good integration of the efforts of these personnel with those of the other qualified inspectors.~~
- ~~(vii) Supervisors accompany all inspectors on at least an annual basis, with greater emphasis on the less experienced inspectors.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) Review indicates that findings in inspection reports and inspection files are, on occasion, not well founded or well documented, or the review demonstrates an inappropriate level of management review.~~
- ~~(ii) Review indicates that some inspections do not address potentially important health and safety concerns or indicates recurring problems with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, or consistency relative to the requirements specified in NRC Inspection Manual, Chapter 0610.~~



- ~~(iii) Inspection efforts do not always focus on the safety or safeguards significance of licensee performance. Inspection reports do not attempt to address possible trends or patterns of poor licensee performance. Plant operations addressed and performance areas emphasized do not always correspond closely to the objectives documented in the region's inspection program for the facility.~~
- ~~(iv) An instance occurs in which a contractor or an inspector trainee augmenting an inspection is not provided proper guidance by the inspection leader during an onsite inspection, resulting in inappropriate activity by the contractor that is not immediately corrected when discovered.~~
- ~~(v) Supervisors do not systematically accompany all inspectors to ensure at least annual frequency, but the more recently hired, inexperienced inspectors are accompanied at least annually.~~
- ~~(vi) Followup actions to inspection findings often are not timely, or not appropriate.~~

~~(c) Unsatisfactory~~

- ~~(i) Review indicates that inspections frequently fail to address potentially important health and safety concerns or indicates that chronic problems exist with respect to completeness, adherence to procedures, management review, thoroughness, technical quality, and consistency relative to the requirements specified in NRC Inspection Manual, Chapter 0610.~~
- ~~(ii) Inspection efforts typically do not focus on the safety or safeguards significance of licensee performance. Inspection reports do not attempt to address possible trends or patterns of poor licensee performance. Plant operations addressed and performance areas of emphasis typically bear little correspondence to the objectives documented in the region's inspection program for the facility, or such documentation does not exist.~~
- ~~(iii) More than one instance occurs in which a contractor augmenting an inspection is not provided proper guidance by the inspection leader during an onsite inspection, resulting in inappropriate activity by the contractor that is not immediately corrected when discovered.~~
- ~~(iv) An inspection is conducted solely by an individual who is not a qualified NRC inspector, or is led by an individual who is not a qualified NRC inspector.~~
- ~~(v) Supervisors infrequently accompany inspectors, and accompaniments that are performed fail to involve the more recently hired, less experienced inspectors.~~
- ~~(vi) Followup actions to inspection findings are often not timely or appropriate.~~

~~(d) Category N~~

~~This category is not applicable.~~

~~4. Technical Quality of Incident and Allegation Activities~~

~~(a) Satisfactory~~

- ~~(i) Incident response and allegation procedures are in place.~~
- ~~(ii) Incident response and allegation procedures are appropriately followed in nearly all cases. Actions taken are well coordinated with headquarters, as appropriate, and timely in most instances. The level of effort investigating incidents is usually commensurate with potential health and safety significance of the incident.~~
- ~~(iii) Corrective (enforcement or other) actions are adequately identified to licensees promptly, and appropriate followup measures are taken, in coordination with headquarters, as appropriate, to ensure prompt compliance and protection of public health and safety.~~
- ~~(iv) Followup inspections are scheduled, if necessary, and completed within a reasonable time. Notifications to NMSS, NSIR, and others, as appropriate, are usually provided in a timely fashion.~~
- ~~(v) Preparations for the region's portion of the response to major incidents are appropriate to the types of incidents that may occur at the region's facilities. Sufficient documentation exists to identify individuals with required skills and experience to be summoned to respond in an emergency, and potential regional participants have been trained to respond to worst case scenario incidents.~~
- ~~(vi) Procedures are in place to periodically check for completeness of materials needed for emergency response and to occasionally update these materials when circumstances change (e.g., staff turnover, completion of training requirements by staff who would respond, change in processes conducted at facilities, or addition or deletion of a facility).~~
- ~~(vii) The region's portion of self-assessment activities following a drill or an actual event are comprehensive in recognizing problems that arose during the subject activity. Recommendations for improvement arising in self-assessment studies are tracked to ensure further study or implementation.~~
- ~~(viii) Inspection activity conducted as followup to receipt of allegations is technically sound and successful in determining the safety implications of the allegations, as appropriate.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) The regional portions of incident response and allegation procedures are in place but occasionally are not adhered to in detail.~~
- ~~(ii) Resolution of potential public health and safety issues is marginal, with problems in coordination or timeliness.~~
- ~~(iii) Preparations for the regional portions of emergency response lag behind changes in circumstances (as described above). Some lapses in training, background, or experience needed to deal with identified types of incidents requiring response, or some types of incidents have been analyzed at the~~

~~region's facilities but are not recognized in the region's portion of emergency response plans.~~

~~(iv) The region's portion of self-assessment activities following a drill or an actual event are shallow in some areas in not recognizing or further analyzing problems that arose during the subject activity. Some recommendations for improvement in self-assessment studies are not tracked to ensure further study or implementation.~~

~~(v) The regional portion of inspection activity conducted as followup to receipt of allegations fails to completely address the safety implications of the allegations.~~

~~(c) Unsatisfactory~~

~~(i) Review indicates frequent examples of the regional portion of response to incidents or allegations to be incomplete, inappropriate, poorly coordinated, or not timely. As a result, the identified potential health and safety problems persist.~~

~~(ii) Through regional direction, excessive effort is allocated to the investigation of relatively minor safety issues to the detriment of addressing more significant ones.~~

~~(iii) The region has failed to adequately prepare for significant incidents that could occur at its facilities, despite existing documentation or analyses that indicate those incidents could occur.~~

~~(iv) Inspection activity is not conducted as a followup to receipt of an allegation, though there was a clear need to investigate the safety implications of the allegations.~~

~~(d) Category N~~

~~This category is not applicable.~~

### ~~C. 1 Non-Common Performance Indicator 6—Site Decommissioning Management Plan (SDMP)~~

#### ~~1. Staff Qualifications~~

~~(a) Satisfactory~~

~~(i) Qualifications for license reviewers and inspectors are established and reviewed annually.~~

~~(ii) Nearly all staff members are qualified to perform licensing reviews and inspections related to decommissioning through training and documented work experience.~~

~~(iii) Nonqualified staff are subject to the direct supervision of qualified managers; this supervision is evidenced by concurrence on inspection reports and licensing documentation.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) Qualifications for license reviewers and inspectors are established and reviewed every 2 to 3 years.~~
- ~~(ii) Most staff members are qualified to perform licensing reviews and inspections related to decommissioning through training and documented work experience.~~
- ~~(iii) Nonqualified staff are usually subject to the direct supervision of qualified managers; this supervision is evidenced by concurrence on inspection reports and licensing documentation.~~

~~(c) Unsatisfactory~~

- ~~(i) 1Qualifications for license reviewers and inspectors are not established, or if established, these qualifications are not reviewed.~~
- ~~(ii) 1The majority of staff is not qualified to perform licensing reviews and inspections related to decommissioning through training and documented work experience.~~
- ~~(iii) Nonqualified staff are not typically subject to direct supervision of qualified managers.~~

~~(d) Category N~~

~~Special conditions exist that provide justification for withholding a rating for one or more of the not conducting an evaluation criteria and providing a rating for this subelement.~~

~~2. Quality of SDMP Decommissioning Reviews~~

~~(a) Satisfactory~~

~~Nearly all decommissioning plans are reviewed and the reviews are documented in accordance with NRC Inspection Manual, Chapter 2605.~~

~~(b) Satisfactory, But Needs Improvement~~

~~Most decommissioning plans are reviewed and the reviews are documented in accordance with NRC Inspection Manual, Chapter 2605.~~

~~(c) Unsatisfactory~~

~~Decommissioning plans are not being consistently reviewed or documented in accordance with NRC Inspection Manual, Chapter 2605.~~

~~(d) 1Category N~~

~~Special conditions exist that provide justification for withholding a rating for one or more evaluation criteria.~~

~~3. Financial Assurance for Decommissioning~~

~~(a) Satisfactory~~

- ~~(i) For nearly all sites, financial assurance is provided for the estimated costs for an independent third party to perform decommissioning with the objective of releasing the site.~~
- ~~(ii) For sites where financial assurance has not been provided, alternative arrangements have been approved by the applicable regulators.~~
- ~~(iii) Financial assurance mechanisms are reviewed and maintained to ensure that they are executable and provide sufficient funding for decommissioning in the event that the licensee liquidates or is otherwise unable to pay for decommissioning.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) For most sites, financial assurance is provided for the estimated costs for an independent third party to perform decommissioning with the objective of releasing the site.~~
- ~~(ii) For most sites where financial assurance has not been provided, alternative arrangements have been approved by the applicable regulators.~~
- ~~(iii) For most sites, financial assurance mechanisms are reviewed and maintained to ensure that they are executable and provide sufficient funding for decommissioning in the event that the licensee liquidates or is otherwise unable to pay for decommissioning.~~

~~(c) Unsatisfactory~~

- ~~(i) Financial assurance is not consistently provided for the estimated costs for an independent third party to perform decommissioning with the objective of releasing the site.~~
- ~~(ii) For sites where financial assurance has not been provided, alternative arrangements have not been always approved by the applicable regulators.~~
- ~~(iii) Financial assurance mechanisms are not being consistently reviewed and maintained to ensure that they would be executable and provide sufficient funding for decommissioning in the event that the licensee liquidates or is otherwise unable to pay for decommissioning.~~

~~(d) Category N~~

~~Special conditions exist that provide justification for withholding a rating for one or more evaluation criteria.~~

~~4. Termination Radiological Surveys~~

~~(a) Satisfactory~~

- ~~(i) For nearly all SDMP sites, sufficient radiological surveys are being performed before license termination and site release, as outlined in NRC Inspection Manual, Chapter 2605, to ensure that residual radioactivity levels comply with release criteria.~~
- ~~(ii) Licensee survey results are routinely validated through a closeout inspection or confirmatory survey, as outlined in NRC Inspection Manual, Chapter 2605, given the extent and significance of any residual contamination.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) For most SDMP sites, sufficient radiological surveys are being performed before license termination and site release, as outlined in NRC Inspection Manual, Chapter 2605, to ensure that residual radioactivity levels comply with release criteria.~~
- ~~(ii) License survey results are usually validated through a closeout inspection or confirmatory survey, as outlined in NRC Inspection Manual, Chapter 2605, given the extent and significance of any residual contamination.~~

~~(c) Unsatisfactory~~

~~Sufficient radiological surveys are not consistently being performed before license termination and site release, as outlined in NRC Inspection Manual, Chapter 2605, to ensure that residual radioactivity levels comply with release criteria. Also, survey results are not normally validated through a closeout inspection or confirmatory survey, given the extent and significance of any residual contamination, as outlined in NRC Inspection Manual, Chapter 2605.~~

~~(d) Category N~~

~~Special conditions exist that provide justification for withholding a rating for one or more evaluation criteria.~~

5. Inspections

~~(a) Satisfactory~~

- ~~(i) At nearly all SDMP sites, inspections are carried out in accordance with established frequencies.~~
- ~~(ii) SDMP sites are inspected at least once during decommissioning and at all significant milestones in the decommissioning process, in addition to the closeout inspection before license termination.~~
- ~~(iii) Inspections are documented and carried out in accordance with NRC Inspection Procedures 87104 and 88104.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) At most SDMP sites, inspections are carried out in accordance with established frequencies.~~
- ~~(ii) SDMP sites are inspected at least once during decommissioning and at most significant milestones, in addition to the closeout inspection before license termination.~~
- ~~(iii) 1At most SDMP sites, inspections are documented and carried out in accordance with NRC Inspection Procedures 87104 and 88104.~~

~~(c) 1Unsatisfactory~~

- ~~(i) Inspections are not consistently being carried out in accordance with established frequencies.~~
- ~~(ii) SDMP sites are not inspected at least once during decommissioning or at significant milestones, in addition to the closeout inspection before license termination.~~
- ~~(iii) Inspections are not consistently being documented and carried out in accordance with NRC Inspection Procedures 87104 and 88104.~~

~~(d) Category N~~

~~Special conditions exist that provide justification for withholding a rating for one or more evaluation criteria.~~

~~6. SDMP Milestones~~

~~(a) Satisfactory~~

- ~~(i) At nearly all SDMP sites, the decommissioning milestones summarized in the SDMP are being met or delays are identified and a mechanism is in place to ensure that any appropriate corrective actions are taken.~~
- ~~(ii) Policy issues affecting decommissioning of SDMP sites are being identified.~~
- ~~(iii) Staff is updating the SDMP database in a timely manner.~~

~~(b) Satisfactory, But Needs Improvement~~

- ~~(i) 1For most SDMP sites, the decommissioning milestones summarized in the SDMP are being met or delays are identified and a mechanism is in place to ensure that any appropriate corrective actions are taken.~~
- ~~(ii) Staff routinely identify policy issues affecting the decommissioning of SDMP sites in a timely manner.~~
- ~~(iii) Staff are updating the SDMP database for most sites in a timely manner.~~

~~(c) Unsatisfactory~~

- ~~(i) The decommissioning milestones summarized in the SDMP are not routinely being met or delays are not being identified and a mechanism is not in place to ensure that any appropriate corrective actions are taken.~~
- ~~(ii) Policy issues affecting the decommissioning of SDMP sites are not typically being identified in a timely manner.~~
- ~~(iii) Staff are not routinely updating the SDMP database in a timely manner.~~

~~(d) Category N~~

~~Special conditions exist that provide justification for withholding a rating for one or more evaluation criteria.~~

## **IV PROGRAMMATIC ASSESSMENT**

### **A. General**

1. 1A management review board (MRB) will make the overall assessment of each NRC region's or Agreement State's program. Information considered by the MRB includes the proposed final report, recommendations prepared by the team that conducted the review of that region or State, information from periodic meetings in accordance with ~~Office of State and Tribal Programs (STP) NMSS~~ Procedure SA-116, "Periodic Meetings ~~With Agreement States Between IMPEP Reviews,~~" and any unique circumstances. The overall assessment will also include a consideration of information provided by the region or State at the MRB meeting. In addition to a recommended overall finding, the proposed final report will contain the team's recommendations for each common indicator and each applicable non-common indicator for both Agreement States and NRC regions. ~~The MRB may also direct that a program be placed on monitoring, heightened oversight, or that the next IMPEP review or periodic meeting be scheduled earlier. The MRB may also direct changes in the level of program oversight and/or the frequency of IMPEP reviews. The MRB may direct followup IMPEP reviews, focused IMPEP reviews or adjust the periodic meeting frequency as a means to assess progress on performance weaknesses. For periodic meetings, the MRB will convene as a special MRB to receive a briefing on periodic meeting outcomes and deliberate next actions. For IMPEP reviews, including followup and focused IMPEP reviews, the MRB convenes to deliberate performance indicator ratings, adequacy and compatibility findings, the frequency and type of the next review as well as implementation or discontinuance of monitoring, heightened oversight, probation, and suspension.~~
2. The MRB will consist of a group of senior NRC managers, or their designees, ~~including—~~
  - (a) Deputy Executive Director for Materials, Waste, Research, State, Tribal, and State Compliance Programs as Chair
  - (a) Director, Office of Nuclear Material Safety and Safeguards



~~(b) Director, STP~~

(c) General Counsel

(d) Regional Administrator

3. 1The Organization of Agreement States also will be invited to specify a representative to serve as a member of each MRB, as a ~~nonvoting~~non-voting Agreement State liaison. In this capacity, the State 1representative will receive applicable documentation and engage in all MRB discussions. The Agreement State liaison does not have voting authority since this function is reserved solely to the NRC. The Agreement State liaison representative is expected to provide an Agreement State perspective on any matter that is voted on by the MRB.
4. Representatives from other NRC offices may be invited by the Director of NMSS to serve as a non-voting member of an MRB for their expertise on a specific topic.
5. For an NRC region, the MRB will assess only the adequacy of the program to protect public health and safety. For an Agreement State program review, the MRB will assess both adequacy and compatibility.
6. The MRB should consider the following actions when considering programmatic performance of an NRC Regional or Agreement State program:
  - (a) If the MRB finds that the loss in staff during the second half of the review period will likely lead to less than satisfactory finding for one or more performance indicator with the next year, then the MRB should strongly consider issuing a recommendation in the Technical Staffing and Training performance indicator;
  - (b) If a program entering the current review period with significant staffing vacancies, backlog in inspections or licensing actions or overdue regulations (reflective of less than satisfactory finding in the appropriate performance indicator), and by the end of the end of the current review period, all vacancies are filled, and backlogged actions or overdue regulations are completed along with those due during the current review period, then the MRB should give strong consideration for a satisfactory rating for the current review period for the appropriate indicator.

#### **B. 1Adequacy Findings for Agreement State Programs**

1. Finding 1—Adequate To Protect Public Health and Safety
  - (a) If the MRB finds that a State program is satisfactory for all performance indicators, the State's program will be found adequate to protect public health and safety.
  - (b) If the MRB finds that a State program is satisfactory ~~but needs~~with improvement needed for one or two performance indicators and is satisfactory for all remaining

performance indicators, the MRB should consider whether the State's program is adequate or adequate ~~but needs with~~ improvement ~~needed~~.

2. Finding 2—Adequate ~~But Needs Improvement To Protect Public Health and Safety but needs improvement~~
  - (a) If the MRB finds that a State program is satisfactory ~~but needs with~~ improvement ~~needed~~ for one or two performance indicators, ~~one of which is Technical Staffing and Training~~, and is satisfactory for all remaining performance indicators, the MRB should consider whether the State's program is adequate ~~or adequate but needs with~~ improvement ~~needed~~.
  - ~~(b) If the MRB finds that a State program protects public health and safety and is satisfactory but needs improvement for three or more performance indicators and is satisfactory for the remaining performance indicators, the MRB should give strong consideration to finding the State's program adequate but needs improvement needed.~~
  - (c) If the MRB finds that a State program protects public health and safety but is unsatisfactory for one or more performance indicators ~~and is satisfactory or~~ satisfactory ~~but needs with~~ improvement ~~needed~~ for ~~the remaining three or more~~ performance indicators, the MRB should give strong consideration to finding the State's program adequate ~~but needs with~~ improvement ~~needed~~.
  - (d) In cases in which previous recommendations associated with indicator findings ~~of adequate but needs improvement with needed~~ have not been ~~completed addressed~~ for a significant period of time beyond the originally scheduled date, the MRB also may find that the program is adequate ~~but needs with~~ improvement ~~needed~~.
3. Finding 3—~~Inadequate~~ **Not Adequate** To Protect Public Health and Safety

**If the MRB finds that a State program is not capable of reasonably ensuring public health and safety for any reason, the MRB will find that the State's program is ~~inadequate~~ **not adequate** to protect public health and safety.**

### C. Compatibility Findings for Agreement State Programs

1. Finding 1—Compatible
  - (i) ~~If the MRB finds that a State program is satisfactory or satisfactory, but needs improvement for the performance indicator Legislation, Regulations and other Program Elements, the MRB will find the program compatible; or~~ ~~1~~ ~~if the~~

(ii) ~~The~~ MRB determines that a State program does not create conflicts, gaps, or disruptive duplication in the collective national effort to regulate materials under the Atomic Energy Act, the MRB will find the program ~~will be found~~ compatible.

2. Finding 2—Not Compatible

(i) ~~If the~~ MRB finds that a State program is unsatisfactory for the performance indicator Legislations, Regulations and other Program Elements, the MRB will find the program not compatible; or

(ii) ~~The~~ MRB determines that a State program creates unnecessary gaps, conflicts, or disruptive duplication in the collective national effort to regulate materials under the Atomic Energy Act, the MRB will find the program ~~will be found~~ not compatible.

D. Adequacy Findings for NRC Regional Programs

The MRB adequacy findings for NRC regional programs will be the same as those listed above for Agreement States.

E. Guidance for MRB Determinations for Agreement State Programs

For most Agreement State reviews, no action other than issuance of the final IMPEP report is needed. For those infrequent reviews where additional action is needed, the following alternatives should be considered:

1. Monitoring

**When ~~weaknesses~~ performance concerns in a program result in, or could result in, less than fully satisfactory performance for one or more performance indicators, monitoring by NRC will be considered by the MRB in accordance with ~~STP Procedures~~ NMSS Procedure SA-122, “Heightened Oversight and Monitoring.” Monitoring is an informal process that allows the NRC to maintain an increased level of communication with an Agreement State program.**

2. Heightened Oversight

**When performance concerns in a program result in one or more of the common and non-common performance indicators are found to be unsatisfactory and/or a significant number of common and non-common performance indicators are found to be satisfactory, but needs improvement, heightened oversight by the NRC will be considered by the MRB in accordance with ~~STP~~ NMSS Procedure SA-122, “Heightened Oversight and Monitoring.” ~~When strong commitments to improve its program have been made by the Agreement State at the department director management level, the MRB will consider heightened oversight, if the MRB believes~~**

~~the actions by the Agreement State will result in necessary program improvements and the State is capable of implementing those commitments. Heightened oversight ~~could~~ is a formal process and include requests for an Agreement State program improvement plan, periodic Agreement State progress reports, periodic NRC/Agreement State conference calls, and a followup review by the IMPEP team, or full review where appropriate.~~

### 3. Probation

- (a) The MRB will consider probation for an Agreement State using the STPNMSS Procedure SA-113, "Placing an Agreement State on Probation," as a reference. Probation is appropriate for MRB consideration when the finding for an Agreement State is adequate, but needs improvement, or is not compatible and when any of the following circumstances occur:
- (i) ~~When one or more of the common or non-common performance indicators are found unsatisfactory and are of such safety significance that assurance of the program's ability to protect the public health may be degraded, An Agreement State has been on~~ heightened oversight by the NRC is required, and heightened oversight without a formal declaration of probation may or monitoring which has not ~~resulted~~ resulted in necessary program improvements;
  - (ii) ~~1~~ Previously identified programmatic deficiencies have gone uncorrected for a significant period of time beyond which ~~the~~ corrective actions had been originally scheduled for completion and the NRC is not confident of the State's ability to correct such deficiencies in an expeditious and effective manner ~~without heightened oversight and a formal probation declaration by the NRC; or~~
  - (iii) ~~When a program Agreement State~~ has repeatedly been late in adopting required compatibility elements, regulations or other legally binding requirements and ~~only~~ heightened oversight by NRC, together with a formal declaration of probation, would yield improvements-
- (b) ~~The following are examples of Agreement State program deficiencies for which the MRB would consider probation for an Agreement State. This list NRC is not all-inclusive and other Agreement State program deficiencies may require consideration.~~
- (i) ~~Repeated failure~~ confident of the State's ability to identify design correct such deficiencies in followup analysis of events or incidents involving sealed sources and devices an expeditious and effective manner.
  - (ii) ~~Inability to retain skilled staff, resulting in increased backlog in inspections and deficiencies in the technical quality of inspection and licensing programs~~

- ~~(iii)~~ Inability or difficulty in adopting regulations that could result in significant impacts across State boundaries or allow licensees to be subject to less stringent requirements than the NRC requirements determined to be necessary to satisfy compatibility criteria;
- (iv) Repeated failure to identify design deficiencies in followup analysis of events or incidents involving sealed sources and devices;
- (v) Failure to adequately respond to multiple incidents which may affect public health and safety;
- (vi) Inability to retain skilled staff, resulting in an increased backlog in inspections and deficiencies in the technical quality of inspection and licensing programs; or

#### 4. Suspension

- (a) ~~1The MRB will consider if suspension of an agreement is required to protect public health and safety, or if the State has not complied with one or more of the requirements of Section 274 of the Atomic Energy Act of 1954, as amended. In accordance with STPNMSS Procedure SA-114 "Suspension of a Section 274b Agreement," or SA-112 "Emergency Suspension of a Section 274b. Agreement," the MRB will consider recommending suspension of all or part of its agreement~~ when any of the following ~~circumstances~~conditions occur:
  - ~~(i) In cases in which the~~The MRB finds that program deficiencies related to either adequacy or compatibility ~~are the kind that require immediate NRC action, the MRB will recommend to the Commission to suspend all or part of its agreement with the State.;~~immediate NRC action;
  - ~~(ii) In cases in which the~~The State radiation control program has not complied with one or more requirements of the Atomic Energy Act (i.e., the State program is not compatible with the NRC program and the State has refused or is unable to address those areas previously identified as compatibility concerns) and the ~~noncompatibility~~lack of compatibility is disruptive to the national program conducted by NRC and Agreement States for the regulation of material under the Atomic Energy Act.; or
  - ~~(iii) An emergency situation arises and the State has failed to, or is prevented from, taking steps necessary to protect public health and safety.~~
- (b) Suspension, rather than termination, will be the preferred option in those cases in which the MRB believes that the State has provided evidence that the program

deficiencies are temporary and that the State is committed to implementing program improvements.

#### 5. Termination

(a) The MRB will consider termination for an Agreement State in accordance with STPNMSS Procedure SA-115, "Termination of a Section 274b Agreement," when any of the following circumstances occur:

- (i) The State radiation control program is found to be ~~inadequate~~not adequate to protect public health and safety and no compensating program has been implemented;
- (ii) The State has been on probation ~~for a period of time during which it and has~~ failed to respond to NRC concerns regarding the State's ability to carry out a program to protect public health and safety;
- (iii) The State radiation control program is not compatible with the NRC program and the State has refused, or is unable, to address those areas previously identified as compatibility concerns and the noncompatibility is significantly disruptive to the national program among NRC and Agreement States for the regulation of material under the Atomic Energy Act; or

(iv) At the request of the Governor of an Agreement State.

(b) The following are examples of situations in which the MRB will consider recommending initiating formal procedures to terminate an agreement. This list is not all-inclusive and other situations may require consideration.

- (i) Significant loss of staff, which includes number of staff or those with critical skills coupled with a State's inability to hire appropriate replacements;
- (ii) Continual problems that manifest in the State's inability to perform adequate inspections or issue appropriate licenses;
- (iii) Inability to adopt compatible program elements over a significant period of time (years) and nationally disruptive regulatory program conflicts, gaps, or duplication exists; or
- (iv) Continued probationary or suspension status for a State program beyond the period originally ~~envisioned~~established in the program improvement plan.

#### F. Guidance for MRB Determinations for NRC Regional Programs

If ~~significant adequacy-related performance~~ concerns are identified in ~~a regional~~an NRC materials program by an IMPEP review, the same criteria for an Agreement State determination

should be used by the MRB (i.e., that a program is ~~inadequate~~not adequate to protect public health and safety or is adequate, but needs improvement). Program monitoring, heightened oversight, probation, suspension, and termination are not applicable to ~~regional~~NRC materials programs. The NRC must implement immediate action to correct ~~regional~~materials program deficiencies that are similar to those that would warrant probation, suspension, or termination actions for an Agreement State. ~~A significant weakness~~ Significant weaknesses or deficiencies in the program that could affect public health and safety or - program deficiencies will be addressed by adjustment of priorities and redirection of resources.

## II. 1GLOSSARY

It is necessary to note that some Agreement States or NRC ~~regions~~ may not define these terms identically. In such cases, the review team will highlight any differences in its review but draw its conclusions and make its assessments based on the definitions used by that State or ~~region~~NRC at the time of the review.

**Allegation.** A declaration, statement, or assertion of impropriety or inadequacy associated with regulated activities, the validity of which has not been established. This term includes all concerns identified by sources such as the media, individuals, or organizations, and technical audit efforts from Federal, State, or local government offices regarding activities at a licensee's site. Excluded from this definition are matters being handled by more formal processes such as 10 CFR 2.206 petitions, hearing boards, appeal boards, and so forth.

### Complex program.

**Concurrence Review.** A quality assurance review is an evaluation of the initial safety review and must be performed by a different qualified reviewer. It does not need to be performed to the same level of detail as the initial review. The depth of quality assurance review should be commensurate with the complexity of the application and the potential risks associated with the use of the source or device. This review should ensure that the proposed product meets all applicable regulations and requirements and that appropriate health and safety concerns have been addressed and that the device will be safe under the proposed conditions of use and likely accident situations. The quality assurance review should also ensure that the registration certificate for the source or device is accurate and that it provides information essential for proper licensing of the product.

~~**Fuel Cycle Inspections.** The definition of "Inspections" in 10 CFR 170.3 should be used to determine what constitutes a fuel cycle inspection. The term includes both routinely scheduled and reactive inspections.~~

**1Incident.** An event or condition that has the possibility of affecting public health and safety such as described in 10 CFR or equivalent regulations. Office of State and Tribal Programs Procedure SA-300, "Reporting Material Events," includes a listing of NRC reporting requirements in Title 10.

**Materials Inspection.** The definitions in 10 CFR 170.3, and in NRC Inspection Manual, Chapter 2800, should be used to determine what constitutes an inspection. In addition, Agreement State hand delivery of new licenses may constitute initial inspections. The term includes both routinely scheduled and reactive inspections.

**Materials Licensing Action.** Reviews of applications for new byproduct materials licenses, license amendments, renewals, and license terminations.

**Overdue ~~Core~~Priority Inspections.** ~~NRC no longer defines the term “core” licensees in NRC Inspection Manual, Chapter 2800. Many States use different definitions. For purposes of this management directive, a core licensee will be defined as new licensees and licensees in Priorities 1, 2, and 3.~~ A ~~core~~Priority license will be considered overdue for inspection in the following cases:

- A new licensee that has not been inspected within 12 months of license issuance.
- An existing Priority 1, 2 or 3 license is more than 25 percent beyond the interval defined in NRC Inspection Manual, Chapter 2800. ~~(An inspection will not be considered overdue if the inspection frequency has been extended in accordance with NRC Inspection Manual, Chapter 2800, on the basis of good licensee performance.)~~
- ~~1~~Overdue inspections will not be determined on the basis of any inspection frequencies established by States or regions that are more stringent than those contained in NRC Inspection Manual, Chapter 2800. ~~The frequencies provided in NRC Inspection Manual, Chapter 2800, will generally be used as the yardstick for determining if an inspection is overdue. Chapter 2800.~~