



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF NEW JERSEY

TYPE OF OVERSIGHT: NONE

September 8, 2021

**FINAL**

## PERIODIC MEETING PARTICIPANTS

### **NRC**

- Blake Welling: Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission (NRC), Region I
- Farrah Gaskins: Regional State Agreements Officer, NRC, Region I

### **New Jersey Bureau of Environmental Radiation**

- Jennifer Goodman, Manager
- Deborah Wenke, Supervisor, Medical and Emergency Response
- Richard Peros, Radiation Physicist
- Nancy Stanley, Radiation Physicist
- Karen Flanigan, Radiation Physicist
- Sarah Sanderlin, Radiation Physicist
- James McCullough, Supervisor, Radiological and Environmental Assessment
- Joseph Power, Radiation Physicist
- Daniel Tabor, Environmental Services Trainee
- Claire Drozd, Environmental Services Trainee
- Brittany Goeman, Environmental Services Trainee
- Christopher Giaquinto, Environmental Specialist

## 1.0 INTRODUCTION

This report presents the results of the periodic meeting held virtually between the U.S. Nuclear Regulatory Commission (NRC) and the State of New Jersey on September 8, 2021. The meeting was conducted in accordance with the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The New Jersey Agreement State Program underwent an Integrated Materials Performance Evaluation Program (IMPEP) review on March 25-29, 2019. A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on June 18, 2019. Based on the findings presented, the MRB found New Jersey's performance satisfactory for all six performance indicators reviewed: Technical Staffing and Training, Status of Materials Program, Technical Quality of Inspections, Technical Quality of Licensing Actions, Technical Quality of Incidents and Allegations, and Legislation, Regulations, and Other Program Elements (formerly known as Compatibility Requirements). No new recommendations to improve program performance were made. Overall, New Jersey was found adequate to protect public health and safety and compatible with the NRC's program. The MRB determined that the next IMPEP review should take place in approximately 5 years with a periodic meeting in approximately 2.5 years.

The New Jersey Agreement State Program is administered by the Bureau of Environmental Radiation (the Bureau), in the Division of Climate, Clean Energy, & Radiation Protection (the Division). The Division is part of the New Jersey Department of Environmental Protection (the Department). No changes to the organizational structure of the Agreement State Program have occurred since the 2019 IMPEP review.

The New Jersey Agreement State Program regulates approximately 518 specific licenses authorizing possession and use of radioactive materials. The periodic meeting focused on the radioactive materials program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of New Jersey.

The New Jersey Agreement State Program is 100 percent fee funded. The funds are placed into a dedicated fund for use by the Radiation Control Program.

## 2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC regional and Agreement State radioactive materials programs during an IMPEP review. These indicators are (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities. Each of these indicators was discussed during the September 2021 periodic meeting.

## New Jersey Periodic Meeting Summary

### 2.1 Technical Staffing and Training (2019 IMPEP review: Satisfactory)

The New Jersey Agreement State Program is comprised of 13 technical staff members and a Program Manager, which is equivalent to 11.6 full time equivalents (FTE). There has been no change in the number of staff or FTE dedicated to this program since the 2019 IMPEP review. There are currently no vacancies.

The technical staff are both license reviewers and inspectors. There were four new staff hired since the last IMPEP. The new staff have been with the program between three and 18 months and are still going through qualifications. The training and qualification manual used by staff is compatible with the NRC's Inspection Manual Chapter (IMC) 1248, "Formal Qualifications Program for Federal and State Material and Environmental Management Programs." Qualified staff are meeting and exceeding the requirement to complete 24 hours of refresher training every 24 months. No programmatic impacts from the COVID-19 public health emergency (PHE) were noted for this indicator.

### 2.2 Status of the Materials Inspection Program (2019 IMPEP review: Satisfactory)

The New Jersey Agreement State Program has completed 210 Priority 1, 2, and 3 inspections and no initial inspections since the last IMPEP review. Seven inspections were performed overdue in accordance with New Jersey's inspection frequencies, but not with respect to Manual Chapter 2800. The licensees were portable or fixed gauge licensees which New Jersey performs at a three-year frequency. The overdue inspections were due to the inability to schedule the inspection during the PHE and errors in data input to the New Jersey Environmental Management System (NJEMS) which is used to track inspections, licensing, enforcement and billing. The inspections were overdue by two to four days. There were no Priority 1, 2, 3, or initial inspections overdue for inspection at the time of the periodic meeting. The portable and fixed gauge licensees are the only licensees that New Jersey inspects more frequently than NRC, all other licensees are inspected at the same frequency as NRC.

Since the 2019 IMPEP, New Jersey has only performed reciprocity inspection in 2019. New Jersey Performed 41 percent in calendar year (CY) 2019; 0 percent in CY 20, and one Priority 1 to date in CY 21). A discussion of the changes to the NRC's IMC 2800 and the flexibility allowed for reciprocity inspections was held during the meeting. The NRC's changes to its reciprocity program were shared in State and Tribal Communications Letter STC-20-082. The Program stated that the changes related to reciprocity inspection requirements would be reviewed to determine what if any changes to programmatic policies were needed. The New Jersey Agreement State Program's goal is to issue inspection findings within 30 days of the inspection exit and generally adheres to this time frame. The Department policy allows 90 days to complete an inspection report.

The PHE impacted this area. New Jersey ceased performing reciprocity inspections in 2020 and most of 2021 due to the restrictions in place within the state that made it difficult to schedule and perform inspections.

2.3 Technical Quality of Inspections  
(2019 IMPEP review: Satisfactory)

The PHE had a major impact in the state of New Jersey. In most of 2020, the Program adapted to the restrictions that were in place within the state. Inspection accompaniments were affected by the PHE. All staff performing radioactive materials inspections were accompanied in 2019, one was accompanied in 2020 and the Program is on track to complete all accompaniments of qualified staff by the end calendar year 2021.

The New Jersey Agreement State Program uses inspection procedures that are compatible with the inspection guidance outlined in the NRC's IMC 2800 and associated inspection procedures. A variety of appropriately calibrated survey instruments are maintained to support the inspection program.

There were COVID-19 impacts to this indicator. Because of the restrictions in place within the state, the Program could not perform onsite inspections and could not send some instruments out for calibrations when they were due. The Program moved to performing remote inspections and used video capabilities to aid with the inspections. These inspections were announced for planning purposes.

2.4 Technical Quality of Licensing Actions  
(2019 IMPEP Review: Satisfactory)

The New Jersey Agreement State Program has regulatory authority over approximately 518 specific licensees. New Jersey has completed 748 licensing actions since the 2019 IMPEP. At the time of the periodic meeting, there were 64 actions being worked on, 19 were renewals and one of them has been in house for over six months. The action has been in house for that long because the licensee submitted a renewal application but had subsequent health problems and also may be terminating. Licenses are issued on a ten-year renewal term.

Staff use the NRC's NUREG 1556 Series licensing guidance, the NRC's Pre-licensing Guidance, and the Risk Significant Radioactive Materials Checklist when performing licensing actions. Qualified staff sign each license once the action is complete before issuance.

2.5 Technical Quality of Incident and Allegation Activities  
(2019 IMPEP review: Satisfactory)

The New Jersey Agreement State Program continues to maintain an effective response to incidents and allegations. There were fourteen reportable events received since the last IMPEP review. The state performs follow up actions as appropriate for event significance.

Five allegations were received since the last IMPEP review. There were two allegations referred by NRC. All allegations were reviewed, processed, and closed in a timely manner. Identities of concerned individuals are protected appropriately. No impacts from the COVID-19 PHE were noted for this indicator.

### 3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Legislation, Regulations, and Other Program Elements (LROPE), (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery (UR) Program. The NRC's Agreement with The NRC did not relinquish regulatory authority for SS&D and UR; therefore, only the non-common performance indicators are LROPE and LLW apply.

#### 3.1 LROPE (2019 IMPEP review: Satisfactory )

The State of New Jersey became an Agreement State on September 30, 2009. New Jersey's regulations for control of radiation are in the New Jersey Administrative Code, Title 7, Chapter 28. New Jersey's regulations are subject to sunset review. The Radiation Protection Code will sunset in 2027. A simple notice is filed for publication in the New Jersey Register if it will be readopted without change at that time. The Department is designated as the State's radiation control agency. No legislation affecting the Agreement State Program was passed since the 2019 IMPEP.

The State's rulemaking process automatically adopts NRC requirements by reference except for Subpart E of 10 CFR Part 20 (Radiological Criteria for License Termination). The State has requirements compatible with Subpart E of 10 CFR Part 20. When the NRC amends requirements, the amendments are automatically incorporated into New Jersey's rules without further proposal or publication.

Since the 2019 IMPEP review, New Jersey submitted one proposed regulation package; RATS ID 2018-1, which was subsequently adopted on June 15, 2020. New Jersey also submitted six final regulation packages; RATS ID's 2018-3, 2019-1, 2019-2, 2020-1, 2020-2, 2020-3. None were submitted overdue for adoption.

#### 3.2 LLW (2019 IMPEP review: not reviewed)

Although New Jersey has authority to regulate a LLRW disposal facility, the NRC has not required States to have a program for licensing a disposal facility until such time as the State has been designated as a host State for a LLRW disposal facility. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, it is expected to put in place a regulatory program that will meet the criteria for an adequate and compatible LLRW disposal program. There are no plans for a commercial LLRW disposal facility in New Jersey.

### 4.0 SUMMARY

The New Jersey Agreement State Program continues to be an effective Agreement State Program. There are currently no vacancies. There were seven inspections performed overdue by New Jersey's established frequencies but were not overdue in accordance with Manual Chapter 2800. Licensing actions are generally completed timely. New Jersey adopts NRC regulations by reference and does not have any regulations overdue for adoption.

## New Jersey Periodic Meeting Summary

The PHE had an impact in the Program with respect to inspections. New Jersey performed remote inspections when possible. Due to restrictions and mandates in place within the state, New Jersey did not meet the 20 percent reciprocity goal in 2020. New Jersey also did not meet staff accompaniment requirements during 2020.

The next IMPEP review should be conducted as scheduled in March 2024.