



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

July 15, 2019

Jenny Goodman, Manager  
Bureau of Environmental Radiation  
Division of Climate, Clean Energy & Radiation Protection  
New Jersey Department of Environmental Protection  
Mail Code 25-01, P.O. Box 415  
Trenton, New Jersey 08610-0415

Dear Ms. Goodman:

On June 18, 2019, the Management Review Board (MRB), which consisted of U.S. Nuclear Regulatory Commission (NRC) senior managers and an Organization of Agreement States Liaison to the MRB, met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the New Jersey Agreement State Program. The MRB found the New Jersey Agreement State Program adequate to protect public health and safety and compatible with the NRC's program.

The enclosed final report contains a summary of the IMPEP team's findings (Section 5.0). The team did not make any recommendations regarding the performance of the New Jersey Agreement State Program during this review. Since this was the second consecutive IMPEP review with all performance indicators being found satisfactory, the team recommended, and the MRB agreed, that the next full IMPEP review will take place in approximately 5 years, with a periodic meeting in approximately 2.5 years.

I appreciate the courtesy and cooperation extended to the IMPEP team during the review. I also wish to acknowledge your continued support for the Agreement State program. I look forward to our respective organizations continuing to work cooperatively in the future.

Sincerely,

*/RA/*

K. Steven West  
Deputy Executive Director for Materials, Waste,  
Research, State, Tribal, Compliance, Administration,  
and Human Capital Programs  
Office of the Executive Director for Operations

Enclosure:  
New Jersey Final IMPEP Report

cc: David M. Howe, Program Director  
Radiation Protection Services  
Oregon Public Health Division  
Oregon Health Authority  
Organization of Agreement States  
Liaison to the MRB



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM  
REVIEW OF THE NEW JERSEY AGREEMENT STATE PROGRAM

MARCH 25-29, 2019

**FINAL REPORT**

Enclosure

## **EXECUTIVE SUMMARY**

The results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the New Jersey Agreement State Program (New Jersey) are contained in this report. The review was conducted during the period of March 25-29, 2019.

Based on the results of this review, New Jersey's performance was found satisfactory for all six performance indicators reviewed.

The team did not make any new recommendations for New Jersey but did identify one good practice related to the development of an innovative safety culture poster which is described in Section 3.3 of this report.

Accordingly, the team recommended and the Management Review Board (MRB) agreed that New Jersey is adequate to protect public health and safety and compatible with the U.S. Nuclear Regulatory Commission's program. Since this was the second consecutive IMPEP review with all performance indicators being found satisfactory, the team recommended, and the MRB agreed, that the next full IMPEP review take place in approximately 5 years, with a periodic meeting in approximately 2.5 years.

## 1.0 INTRODUCTION

The New Jersey Agreement State Program (New Jersey) review was conducted during the period March 25-29, 2019, by a team comprised of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Minnesota. Team members are identified in Appendix A. The review was conducted in accordance with the "Agreement State Program Policy Statement," published in the *Federal Register* on October 18, 2017 (82 FR 48535), and NRC Management Directive (MD) 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)," dated February 26, 2004. Preliminary results of the review, which covered the period of April 25, 2015, to March 29, 2019, were discussed with New Jersey managers on the last day of the review.

In preparation for the review, a questionnaire addressing the common performance indicators and applicable non-common performance indicator was sent to New Jersey by on October 10, 2018. New Jersey provided its response to the questionnaire on March 12, 2019. A copy of the questionnaire response is available in the NRC's Agencywide Documents Access and Management System (ADAMS) (ADAMS Accession Number ML19072A115).

A draft of this report was issued to New Jersey on April 26, 2019, for factual comment (ADAMS Accession Number ML19116A209). New Jersey responded to the draft report by email dated May 6, 2019, from Jenny Goodman, Bureau of Environmental Radiation, Division of Climate, Clean Energy and Radiation Protection, New Jersey Department of Environmental Protection, (ADAMS Accession Number ML19158A232). The Management Review Board (MRB) convened on June 18, 2019, to discuss the team's findings.

New Jersey 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). Organization charts for New Jersey are available in ADAMS (ADAMS Accession Number ML19072A120).

At the time of the review, New Jersey regulated 535 specific licenses authorizing possession and use of radioactive materials. The review 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 team evaluated the information gathered against the established criteria for each common and the applicable non-common performance indicator and made a preliminary assessment of the New Jersey's performance.

## 2.0 PREVIOUS IMPEP REVIEW AND STATUS OF RECOMMENDATIONS

The previous IMPEP review concluded on April 24, 2015. The final report is available in ADAMS (ADAMS Accession Number ML15196A335). The results of the review are as follows:

Technical Staffing and Training: Satisfactory  
Recommendation: None  
Status of Materials Inspection Program: Satisfactory  
Recommendation: None

Technical Quality of Inspections: Satisfactory  
Recommendation: None

Technical Quality of Licensing Actions: Satisfactory  
Recommendation: None

Technical Quality of Incident and Allegation Activities: Satisfactory  
Recommendation: None

Compatibility Requirements: Satisfactory  
Recommendation: None

Overall finding: Adequate to protect public health and safety and compatible with the NRC's program.

## 3.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC regional and Agreement State radioactive materials programs. 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.

### 3.1 Technical Staffing and Training

The ability to conduct effective licensing and inspection programs is largely dependent on having a sufficient number of experienced, knowledgeable, well-trained technical personnel. Under certain conditions, staff turnover could have an adverse effect on the implementation of these programs and could affect public health and safety. Apparent trends in staffing must be explored. Review of staffing also requires consideration and evaluation of the levels of training and qualification. The evaluation standard measures the overall quality of training available to, and taken by, materials program personnel.

a. Scope

The team used the guidance in State Agreements procedure SA-103, "Reviewing the Common Performance Indicator: Technical Staffing and Training," and evaluated New Jersey's performance with respect to the following performance indicator objectives:

- A well-conceived and balanced staffing strategy has been implemented throughout the review period.
- Agreement State training and qualification program is equivalent to NRC Inspection Manual Chapter (IMC) 1248, "Formal Qualifications Program for Federal and State Material and Environmental Management Programs."
- Qualification criteria for new technical staff are established and are followed, or qualification criteria will be established if new staff members are hired.
- Any vacancies, especially senior-level positions, are filled in a timely manner.
- There is a balance in staffing of the licensing and inspection programs.
- Management is committed to training and staff qualification.
- Individuals performing materials licensing and inspection activities are adequately qualified and trained to perform their duties.
- License reviewers and inspectors are trained and qualified in a reasonable period of time.

b. Discussion

New Jersey is comprised of 13 staff members when fully staffed including supervisors and clerical staff. At the time of the review, one technical staff member was on a 1-year reassignment to a different program within the Department and is expected to return in August 2019. The vacant position cannot be filled or posted unless the staff member is permanently reassigned. During the review period, one staff member left to return to his previous job in another program and one person was hired. The team did not identify any staffing performance issues during the review period.

New Jersey has a documented training and qualification program that is compatible with the NRC's IMC 1248. New Jersey management is very supportive of continuing education/refresher training and the training is tracked by three individuals including the employee, a research scientist, and the Program manager. The training qualification record that is used to track milestones directed toward qualification is comprehensive and includes in-house training, on-the-job instruction, and formal courses. A mentoring program has been implemented where senior inspectors and license reviewers provide on-the-job training for junior employees.

c. Evaluation

The team determined that, during the review period, New Jersey met the performance indicator objectives listed in Section 3.1.a. Based on the criteria in MD 5.6, the team recommended that New Jersey's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory.

d. MRB Decision

The MRB agreed with the team's recommendation and found New Jersey's performance with respect to this indicator to be satisfactory.

3.2 Status of Materials Inspection Program

Periodic inspections of licensed 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 IMC 2800, "Materials Inspection Program," and is dependent on the amount and kind of 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.

a. Scope

The team used the guidance in State Agreements procedure SA-101, "Reviewing the Common Performance Indicator: Status of the Materials Inspection Program," and evaluated New Jersey's performance with respect to the following performance indicator objectives:

- Initial inspections and inspections of Priority 1, 2, and 3 licensees are performed at the frequency prescribed in IMC 2800.
- Candidate licensees working under reciprocity are inspected in accordance with the criteria prescribed in IMC 1220, "Processing of NRC Form 241, Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, and Offshore Waters, and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20."
- Deviations from inspection schedules are normally coordinated between technical staff and management.
- There is a plan to perform any overdue inspections and reschedule any missed or deferred inspections, or a basis has been established for not performing any overdue inspections or rescheduling any missed or deferred inspections.
- Inspection findings are communicated to licensees in a timely manner (30 calendar days, or 45 days for a team inspection, as specified in IMC 0610, "Nuclear Material Safety and Safeguards Inspection Reports").

b. Discussion

New Jersey's inspection frequencies are the same for similar license types found in IMC 2800. New Jersey performed a total of 346 Priority 1, 2, and 3; and 39 initial inspections over the review period with only 1 being performed overdue. The one overdue inspection was due to a data input error that caused the next inspection to exceed the target frequency.

The team reviewed a spreadsheet used by New Jersey to track the issuance of all inspection findings to licensees. The issuance data indicated that most inspection findings are communicated to licensees in a timely manner. The team found that 92 percent of all inspection findings are communicated to licensees within NRC's 30-day goal following completion of the inspection. The average time to issue inspection documentation was 13.7 days. It is worth noting that New Jersey is required to follow department policy which requires all department programs to issue inspection findings to licensees within 90 days of the final date of the inspection. While this policy differs from the NRC's requirement of issuing findings within 30 days, New Jersey typically issues inspection findings within 30 days of completion and often within 1-2 weeks if no findings were identified.

The team noted that for each year of the review period, New Jersey performed greater than 20 percent of candidate reciprocity inspections.

c. Evaluation

The team determined that, during the review period, New Jersey met the performance indicator objectives listed in section 3.2.a. Based on the criteria in MD 5.6, the team recommended that New Jersey's performance with respect to the indicator, Status of Materials Inspection Program, be found satisfactory.

d. MRB Decision

The MRB agreed with the team's recommendation and found New Jersey's performance with respect to this indicator to be satisfactory.

3.3 Technical Quality of Inspections

Inspections, both routine and reactive, provide assurance that licensee activities are carried out in a safe and secure manner. Accompaniments of inspectors performing inspections, and the critical evaluation of inspection records, are used to assess the technical quality of an Agreement State's inspection program.

a. Scope

The team used the guidance in State Agreements procedure SA-102, "Reviewing the Common Performance Indicator: Technical Quality of Inspections," and evaluated New Jersey's performance with respect to the following performance indicator objectives:

- Inspections of licensed activities focus on health, safety, and security.
- Inspection findings are well-founded and properly documented in reports.
- Management promptly reviews inspection results.
- Procedures are in place and used to help identify root causes and poor licensee performance.
- Inspections address previously identified open items and violations.
- Inspection findings lead to appropriate and prompt regulatory action.

- Supervisors, or senior staff as appropriate, conduct annual accompaniments of each inspector to assess performance and assure consistent application of inspection policies.
- For programs with separate licensing and inspection staffs, procedures are established and followed to provide feedback information to license reviewers.
- Inspection guides are consistent with NRC guidance.
- An adequate supply of calibrated survey instruments is available to support the inspection program.

b. Discussion

The team interviewed inspectors and evaluated the inspection reports and enforcement documentation for 21 of the 346 Priority 1, 2, and 3; and 39 initial inspections conducted during the review period. The casework reviewed included inspections conducted by 14 former and current inspectors and covered medical, industrial, commercial, academic, research, and service provider licenses. The team found that inspection documents were thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed. Inspection findings were clearly communicated to the licensee and violations were written with a direct link to a regulation or license condition. In the casework reviewed, every inspection addressed previously identified open items and violations.

The team accompanied five inspectors in February 2019. No performance issues were noted during the inspector accompaniments. The inspectors were well-prepared and thorough, and assessed the impact of licensed activities on health, safety, and security; and, followed New Jersey's documented inspection procedures during the inspections. The inspector accompaniments are identified in Appendix B.

Supervisory accompaniments were performed each year of the review period for each inspector. The accompaniments were well documented including feedback provided to the inspector.

The team found that New Jersey possesses a wide variety of appropriately calibrated survey instruments to support the inspection program and to respond to radioactive materials incidents and emergency situations. Calibration records for the instruments were kept on file. Detection instruments were available for gamma, beta, and alpha contamination, as well as dose rates. New Jersey had portable multi-channel analyzers for assessing and identifying unknown sources.

As part of its mission of protecting the public from unnecessary exposure to radiation, New Jersey partnered with its licensees to help promote an environment of positive safety culture in the work place. New Jersey staff engaged licensees to learn what was important to them regarding a safe work environment and used that information to develop a safety culture poster that is suitable for work-place posting. The poster defines ways to practice a positive safety culture environment and identifies positive safety culture traits. The team recommended, and the MRB agreed, that this effort be

identified as a good practice. The poster is available to view on the IMPEP Toolbox at the following location: <https://scp.nrc.gov/impeptools.html>.

c. Evaluation

The team determined that, during the review period, New Jersey met the performance indicator objectives listed in Section 3.3.a. Based on the criteria in MD 5.6, the team recommended that New Jersey's performance with respect to the indicator, Technical Quality of Inspections be found satisfactory.

d. MRB Decision

The MRB agreed with the team's recommendation and found New Jersey's performance with respect to this indicator to be satisfactory.

3.4 Technical Quality of Licensing Actions

The quality, thoroughness, and timeliness of licensing actions can have a direct bearing on public health and safety, as well as security. An assessment of licensing procedures, actual implementation of those procedures, and documentation of communications and associated actions between the New Jersey licensing staff and regulated community is a significant indicator of the overall quality of the licensing program.

a. Scope

The team used the guidance in State Agreements procedure SA-104, "Reviewing the Common Performance Indicator: Technical Quality of Licensing Actions," and evaluated New Jersey's performance with respect to the following performance indicator objectives:

- Licensing action reviews are thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.
- Essential elements of license applications have been submitted and elements are consistent with current regulatory guidance (e.g., financial assurance, increased controls, pre-licensing guidance).
- License reviewers, if applicable, have the proper signature authority for the cases they review independently.
- License conditions are stated clearly and can be inspected.
- Deficiency letters clearly state regulatory positions and are used at the proper time.
- Reviews of renewal applications demonstrate a thorough analysis of a licensee's inspection and enforcement history.
- Applicable guidance documents are available to reviewers and are followed (e.g., NUREG-1556 series, pre-licensing guidance, regulatory guides, etc.).
- Licensing practices for risk-significant radioactive materials are appropriately implemented including increased controls and fingerprinting orders (Part 37 equivalent).

- Documents containing sensitive security information are properly marked, handled, controlled, and secured.

b. Discussion

During the review period, New Jersey performed 1421 radioactive materials licensing actions. The team evaluated 29 of those licensing actions. The licensing actions selected for review included 4 new applications (which included 1 denial), 13 amendments, 4 renewals, 3 terminations, 2 decommissioning funding plans, 2 changes of control, and 1 revocation. The team evaluated casework from 11 former and current license reviewers and included the following license types and actions: broad scope, diagnostic medical, radiopharmaceutical therapy, high dose rate (HDR), gamma knife, cyclotron, industrial radiography, research and development, academic, nuclear pharmacy, portable and fixed gauge, pool irradiator, and financial assurance.

The team determined that licensing actions were thorough, complete, consistent, of acceptable technical quality, and properly addressed health, safety, and security issues. Licensing casework reviewed by the team demonstrated the use of appropriate procedures, detailed checklists, and regulatory guidance that ensure licensees are submitting proper documentation to support the licensing actions they requested. New Jersey staff ensure that each licensing action undergoes a secondary review prior to final issuance to assure a high level of quality and consistency.

Over the review period, New Jersey approved 48 new licenses. Of those the team reviewed three new licenses, one denial, and two changes of control as part of the licensing case work. The team found that New Jersey implemented NRC's latest pre-licensing guidance, RCPD-18-005, "Request to Implement the Revised Pre-Licensing Guidance, Notification of Upcoming Webinar Training, and Discontinuance of a Licensing Practice," issued August 2018. However, New Jersey recently changed its policy for pre-licensing site visits to include all new license applications and changes in control, including known entities. All licensing staff that were interviewed were knowledgeable about the use and application of pre-licensing guidance, and all new license casework included a pre-licensing site visit by a qualified New Jersey staff member. The license application that was denied by New Jersey was based on the staff's recognition that the applicant was not able to acquire the necessary equipment to facilitate the scope of the license for which they were applying.

New Jersey has developed a checklist that is used when initiating a technical review of a licensing action. The purpose of this checklist is to determine which licensing review checklists are necessary to complete the licensing action. The available licensing review checklists include: pre-licensing, risk significant radioactive materials (RSRM), financial assurance, termination, etc. Some of these checklists were created by New Jersey, while others were taken from NRC guidance. The pre-licensing and RSRM checklists currently used by New Jersey are the most recent checklists issued by the NRC.

New Jersey has designated specific staff members to handle licensing actions that involve financial assurance. At the time of the review, New Jersey had 30 licensees that required financial assurance. In its overall review of licensing actions, the team

reviewed four licensees that required financial assurance and two licensees with decommissioning funding plans. In each file reviewed, the team found that the financial instruments were appropriate and secure, and the review of the decommissioning funding plans were thorough.

The State of New Jersey has a unique policy regarding standby trust agreements. In an opinion from a Deputy Attorney General dated February 26, 2013, New Jersey was informed that a standby trust agreement was not necessary for licensees who establish a letter of credit as its financial assurance instrument, provided that the letter of credit is worded such that the State of New Jersey acts as the trustee. During the team's review of financial assurance casework, one involved a letter of credit where no standby trust was necessary because of this exception.

c. Evaluation

The team determined that, during the review period, New Jersey met the performance indicator objectives listed in Section 3.4.a. Based on the criteria in MD 5.6, the team recommended that New Jersey's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

d. MRB Decision

The MRB agreed with the team's recommendation and found New Jersey's performance with respect to this indicator to be satisfactory.

3.5 Technical Quality of Incident and Allegation Activities

The quality, thoroughness, and timeliness of response to incidents and allegations of safety concerns can have a direct bearing on public health and safety. An assessment of incident response and allegation investigation procedures, actual implementation of these procedures, internal and external coordination, and investigative and follow-up actions, are a significant indicator of the overall quality of the incident response and allegation programs.

a. Scope

The team used the guidance in State Agreements procedure SA-105, "Reviewing the Common Performance Indicator: Technical Quality of Incident and Allegation Activities," and evaluated New Jersey's performance with respect to the following performance indicator objectives:

- Incident response, investigation, and allegation procedures are in place and followed.
- Response actions are appropriate, well-coordinated, and timely.
- On-site responses are performed when incidents have potential health, safety, or security significance.
- Appropriate follow-up actions are taken to ensure prompt compliance by licensees.

- Follow-up inspections are scheduled and completed, as necessary.
- Notifications are made to the NRC Headquarters Operations Center for incidents requiring a 24-hour or immediate notification to the Agreement State or NRC.
- Incidents are reported to the Nuclear Material Events Database (NMED).
- Allegations are investigated in a prompt, appropriate manner.
- Concerned individuals are notified of investigation conclusions.
- Concerned individuals' identities are protected, as allowed by law.

b. Discussion

During the review period, 24 incidents were reported to the NMED database by New Jersey. The team selected 17 events to evaluate. The casework reviewed included: four damaged gauge events, one stolen gauge, two lost sources, a leaking HDR source, two leaking electron capture devices, an incident where the whole-body dose for one individual exceeded the annual dose limit of 5 rem, a gamma knife event with the unintended movement of the head bracket during treatment, a bad tag involving diagnostic material, an event involving poorly manufactured intravenous tubing resulting in an under dose to a patient, a damaged applicator resulting in an incorrect HDR dose to a patient, a yttrium-90 under dose, and a self-shielded irradiator malfunctioning sample door that inadvertently locked in the safe position.

The team found that inspectors properly evaluated each event, interviewed involved individuals, and thoroughly documented their findings. Although, the enforcement program is not evaluated as part of the IMPEP process, the team noted that enforcement actions were taken where appropriate to address violations identified during follow-up inspections.

When an event is reported to New Jersey, staff and management collectively evaluate the information received to determine its health and safety significance and then decide on the appropriate response. That response can range anywhere from responding immediately to reviewing the event during the next inspection. For each incident that New Jersey staff determines to have potential health and safety significance, New Jersey responds immediately. The team also found that New Jersey responds to events in accordance with its established procedure.

The team evaluated New Jersey's reporting of events to the NRC's Headquarters Operations Officer (HOO). The team noted that in each case evaluated where HOO notification was required, New Jersey reported all events within the required timeframe.

During the review period, 13 allegations were received by New Jersey. The team evaluated all 13 allegations including 4 allegations that the NRC referred to New Jersey during the review period. The team found that New Jersey took prompt and appropriate action in response to the concerns raised. All the allegations reviewed were appropriately closed, concerned individuals were notified of the actions taken, and allegeders' identities were protected whenever possible in accordance with State law.

c. Evaluation

The team determined that, during the review period, New Jersey met the performance indicator objectives listed in Section 3.5.a. Based on the criteria in MD 5.6, the team recommended that New Jersey's performance with respect to the indicator, Technical Quality of Incident and Allegation Activities, be found satisfactory.

d. MRB Decision

The MRB agreed with the team's recommendation and found New Jersey's performance with respect to this indicator to be satisfactory.

#### 4.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Compatibility Requirements; (2) Sealed Source and Device (SS&D) Evaluation Program; (3) Low-Level Radioactive Waste Disposal (LLRW) Program; and (4) Uranium Recovery Program. The NRC's Agreement with New Jersey retains regulatory authority for SS&D evaluations and uranium recovery; therefore, only the first and third non-common performance indicators applied to this review.

#### 4.1 Compatibility Requirements

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, safety, and security. The State must be authorized through its legal authority to license, inspect, and enforce legally binding requirements, such as regulations and licenses. 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 requirement is not later than 3 years after the effective date of the NRC's final rule. Other program elements, as defined in Appendix A of State Agreements procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and 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.

a. Scope

The team used the guidance in State Agreements procedure SA-107, "Reviewing the Non-Common Performance Indicator: Compatibility Requirements," and evaluated New Jersey's performance with respect to the following performance indicator objectives. A complete list of regulation amendments can be found on the NRC website at the following address: <https://scp.nrc.gov/regtoolbox.html>.

- The Agreement State program does not create conflicts, duplications, gaps, or other conditions that jeopardize an orderly pattern in the regulation of radioactive materials under the Atomic Energy Act, as amended.
- Regulations adopted by the Agreement State for purposes of compatibility or health and safety were adopted no later than 3 years after the effective date of the NRC regulation.
- Other program elements, as defined in SA-200 that have been designated as necessary for maintenance of an adequate and compatible program, have been adopted and implemented within 6 months of NRC designation.
- The 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.
- The State is authorized through its legal authority to license, inspect, and enforce legally binding requirements such as regulations and licenses.
- Sunset requirements, if any, do not negatively impact the effectiveness of the State's regulations.

b. Discussion

New Jersey became an Agreement State on September 30, 2009. Legislative authority to create the Bureau and enter into an Agreement with NRC is granted in the Radiation Protection Act (N.J.S.A 26:2D), the Administrative Procedures Act (N.J.S.A. 52:14B-1 et seq.), and the Atlantic Interstate Low-Level Radioactive Waste Compact Implementation Act. New Jersey's regulations for control of radiation are in the New Jersey Administrative Code, Title 7, Chapter 28. New Jersey regulations are subject to sunset review. The Radiation Protection Code will sunset in 2020. A simple notice is filed for publication in the *New Jersey Register* if it will be readopted without change at that time.

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. At the time of the review, no amendments were overdue for adoption. During the review period, New Jersey submitted three packages containing eight final regulation amendments to the NRC for a compatibility review. None of the amendments were overdue at the time of submission. The NRC had no comments on those amendments. New Jersey made a revision to its administrative code and the NRC had one comment. That comment is being addressed as part of the rulemaking in progress for the clarification of 10 CFR 71 regarding general licenses and review of quality assurance plans of any state licensees that use Type B casks, and Part 35 revisions. The state plans to have that action complete by August 2020.

c. Evaluation

The team determined that, during the review period, New Jersey met the performance indicator objectives listed in Section 3.4.1.a. Based on the criteria in MD 5.6, the team recommended that New Jersey's performance with respect to the indicator, Compatibility Requirements, be found satisfactory.

d. MRB Decision

The MRB agreed with the team's recommendation and found New Jersey's performance with respect to this indicator to be satisfactory.

4.2 Low-Level Radioactive Waste Disposal Program

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. Accordingly, the team did not review this indicator.

5.0 SUMMARY

As noted in Sections 3.0 and 4.0 above, New Jersey's performance was found to be satisfactory for all performance indicators reviewed. The team did not make any new recommendations and identified a good practice which is described in Section 3.3.

Accordingly, the team recommended, and the MRB agreed, that the State of New Jersey Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. Since this was the second consecutive IMPEP review with all performance indicators being found satisfactory, the team recommended, and the MRB agreed, that the next full IMPEP review take place in approximately 5 years, with a periodic meeting in approximately 2.5 years.

## LIST OF APPENDICES

Appendix A IMPEP Review Team Members

Appendix B Inspection Accompaniments

## APPENDIX A

### IMPEP REVIEW TEAM MEMBERS

<b>Name</b>	<b>Areas of Responsibility</b>
Randy Erickson, Region IV	Team Leader Technical Quality of Incident and Allegation Activities
John Miller, Region I	Status of Materials Inspection Program Technical Quality of Materials Inspections Inspector Accompaniments
Joseph O'Hara, NMSS	Technical Staffing and Training Compatibility Requirements Technical Quality of Incident and Allegation Activities (Assist – Allegations)
Tyler Kruse, State of Minnesota	Technical Quality of Licensing Actions

APPENDIX B

INSPECTION ACCOMPANIMENTS

The following inspection accompaniments were performed prior to the on-site IMPEP review:

Accompaniment No.: 1	License No.: 438814
License Type: Gamma Knife	Priority: 2
Inspection Date: 02/06/19	Inspector: RP

Accompaniment No.: 2	License No.: 507171
License Type: Portable Gauge	Priority: 5
Inspection Date: 02/13/19	Inspector: SA

Accompaniment No.: 3	License No.: 507156
License Type: Pool Irradiator	Priority: 2
Inspection Date: 02/14/19	Inspector: JM

Accompaniment No.: 4	License No.: 506933
License Type: Radiography	Priority: 1
Inspection Date: 02/27/19	Inspector: ET

Accompaniment No.: 5	License No.: 551358
License Type: High Dose Rate Remote Afterloader	Priority: 2
Inspection Date: 02/28/19	Inspector: DW