

March 13, 2009

Paul Baldauf, Assistant Director
Division of Environmental Safety and Health
Department of Environmental Protection
P.O. Box 415
Trenton, NJ 08625-0415

Dear Mr. Baldauf:

We have reviewed the final revision to the New Jersey regulations N.J.A.C. 7:28 Radiation Protection Programs received by our office on December 10, 2008. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 39, 40, 61, 70, 71, and 150 and the requirements of NRC Orders EA-05-090 and EA-07-305. We discussed our review of the regulations with William Csaszar on March 10, 2009.

As a result of our review, we have 12 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200.

We request that when you revise your regulations to address our comments, a copy of the "as published" regulations be provided to us for review. As requested in FSME Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by New Jersey, in response to our comments, and provide a copy to Division of Materials Safety and State Agreements, FSME.

This letter, including the SRS Data Sheet, is posted on the FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact Kathleen Schneider, State Regulation Review Coordinator at (310) 415-2320 (kathleen.schneider@nrc.gov) or Monica Orendi at (301) 415-3938 (monica.orendi@nrc.gov).

Sincerely,

/RA/

Terrence Reis, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:
As stated

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 Division of Environmental Safety and Health
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Terrence Reis, Deputy Director
 Division of Materials Safety and State Agreements
 Office of Federal and State Materials and Environmental
 Management Programs

Enclosures: As stated

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COMPATIBILITY COMMENTS ON *NEW JERSEY* FINAL REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	7:28-50.1	19.14(a)	10 CFR 19	NRC	<p>Presence of representatives of licensees and workers during inspections</p> <p>New Jersey incorporates this section by reference. 10 CFR 19.14(a) is a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add 10 CFR 19.14(a) to 7:28-50.1(b) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 19.14(a).</p>
2	7:28-6.1	20.1905(g)	10 CFR 20	NRC	<p>Exceptions to labeling requirements</p> <p>New Jersey incorporates this section by reference. 10 CFR 20.1905(g) is a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add 10 CFR 20.1905(g) to 7:28-6.1(c) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 20.1905(g).</p>
3	7:28-6.1	20.2203(c)	10 CFR 20	NRC	<p>Reports of exposures, etc, exceeding the limits.</p> <p>New Jersey incorporates this section by reference. 10 CFR 20.2203(c) is a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add 10 CFR 20.2203(c) to 7:28-6.1(c) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 20.2203(c).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	7:28-6.1	20.2206(a)(1), (a)(3), (a)(4), & (a)(5)	10 CFR 20	NRC	<p>Reports of Individuals Monitoring</p> <p>New Jersey incorporates 10 CFR 20.2206 (a)(1), (a)(3), (a)(4), & (a)(5) by reference. 10 CFR 20.2206 (a)(1), (a)(3), (a)(4), & (a)(5) are a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add 10 CFR 20.2206 (a)(1), (a)(3), (a)(4), & (a)(5) to 7:28-6.1(c) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 20.2206 (a)(1), (a)(3), (a)(4), & (a)(5).</p>
5	7:28-51.1	30.41(b)(6)	10 CFR 30	NRC	<p>Transfer of byproduct material</p> <p>New Jersey does not incorporate 10 CFR 30.41(a)(6) by reference. However, there is no section 30.41(a)(6). This should actually read 10 CFR 30.41(b)(6).</p> <p>New Jersey needs to make the above change to 7:28-51.1(b)(6) in order to meet the Compatibility Category NRC designation assigned to 10 CFR 30.41(b)(6).</p>
6	7:28-53.1	32.1(c)(1)	10 CFR 32	NRC	<p>Purpose and Scope</p> <p>New Jersey incorporates this section by reference. 10 CFR 32.1(c)(1) is a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add 10 CFR 32.1(c)(1) to 7:28-53.1(b) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 32.1(c)(1).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
7	7:28-55.1	35.11(c)(1)	10 CFR 35	NRC	<p>License Required</p> <p>New Jersey incorporates 10 CFR 35.11 (c)(1) by reference. 10 CFR 35.11(c)(1) is a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add 10 CFR 35.11(c)(1) to 7:28-55.1(b) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 35.11(c)(1).</p>
8	7:28-55.1	35.13(a)(1)	10 CFR 35	NRC	<p>License Amendments</p> <p>New Jersey incorporates 10 CFR 35.13(a)(1) by reference. 10 CFR 35.13(a)(1) is a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add 10 CFR 35.13(a)(1) to 7:28-55.1(b) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 35.13(a)(1).</p>
9	7:28-55.1 (b)(2)	35.63(a), (b), (c), & (d)	10 CFR 35	H&S	<p>Determination of dosages of unsealed byproduct material for medical use</p> <p>New Jersey does not incorporate by reference 10 CFR 35.63 (b)(2)(i) in section 7:28-55.1(b)(2) of their regulations.</p> <p>New Jersey needs to remove 7:28-55.1(b)(2) from its regulations in order to meet the Compatibility Category H&S designation assigned to 10 CFR 35.63(a), (b), (c), & (d).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
10	7:28-60.1	70.25	10 CFR 70	H&S	<p>Financial assurance and recordkeeping for decommissioning</p> <p>New Jersey does not incorporate by reference all of 10 CFR 70.25 (a) in 7:28-60.1 (b)(14). New Jersey should only not incorporate 10 CFR 70.25(a)(1) because it is a Compatibility Category NRC.</p> <p>New Jersey needs to incorporate 10 CFR 70.25(a)(2) and change 7:28-60.1(b)(14) to read 10 CFR 70.25(a)(1) in order to meet the Compatibility Category H&S designation assigned to 10 CFR 70.25(a)(2).</p>
11	7:28-60.1	70.73	10 CFR 70	NRC	<p>Renewal of licenses</p> <p>New Jersey incorporates this section by reference. 10 CFR 70.73 is a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add 10 CFR 70.73 to 7:28-60.1(b) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 70.73.</p>
12	7:28-62.1	150.3	10 CFR 150	NRC	<p>Definition: Foreign obligations</p> <p>New Jersey incorporates this definition by reference. 10 CFR 150.3 definition Foreign obligations is a Compatibility Category NRC and should not be incorporated by reference.</p> <p>New Jersey needs to add the definition of Foreign obligations to 7:28-62.1(b) [sections not incorporated by reference] in order to meet the Compatibility Category NRC designation assigned to 10 CFR 150.3 definition Foreign obligations.</p>

STATE REGULATION STATUS

State: New Jersey
[All amendments reviewed]

Tracking Ticket Number: 9-11
Date: March 13, 2009

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1991-1 – 2008-1	55 FR 843; 56 FR 11504; 56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; 56 FR 64980; 56 FR 34104; 57 FR 45566; 58 FR 39628; 58 FR 7715; 58 FR 33886; 58 FR 68726; 59 FR 1618; 59 FR 28220; 59 FR 36026; 59 FR 61767; 59 FR 65243; 60 FR 322; 60 FR 7900; 60 FR 15649; 60 FR 25983; 60 FR 28323; 60 FR 36038; 60 FR 38235; 60 FR 48623; 60 FR 50248; 61 FR 28724; 61 FR 1109; 61 FR 24669; 61 FR 65120; 62 FR 1662; 62 FR 4120; 62 FR 5907; 62 FR 28947; 62 FR 39057; 62 FR 63634; 63 FR 1890; 63 FR 13773; 63 FR 29535; 63 FR 31604; 63 FR 37059; 63 FR 39477; 63 FR 45393; 63 FR 50127; 64 FR 17506; 64 FR 42269; 64 FR 54543; 64 FR 55524; 65 FR 20337; 65 FR 63750; 65 FR 79162; 67 FR 16298; 67 FR 20249; 68 FR 57327; 69 FR 3697; 70 FR 2001; 70 FR 16336; 71 FR 1926; 70 FR 72128; 71 FR 15005; 71 FR 65685; 71 FR 65685; 72 FR 59162; 72 FR 45147; 72 FR 54207; 72 FR 58473; 72 FR 55864; 72 FR 70901; 72 FR 68043	N/A	10/16/08 ML090510716	Comments 03/13/09 ML090510002	New Jersey submitted an application for Agreement State Status on October 16, 2008 (see Incoming Package ML). This package contained a final version of all New Jersey's regulations which will be used once the Agreement between NRC and New Jersey is effective.