

Dennis Sollenberger

From: Monica Orendi -FME
Sent: Monday, January 05, 2009 1:57 PM
To: Dennis Sollenberger; Torre Taylor
Cc: Kathleen Schneider
Subject: Comments on New Jersey Final Regulations
Attachments: New Comments.doc; Comment Resolution.doc

Dennis and Torre:

Here are the Comment Resolution (from our review of their proposed regulations) and New Comment Tables for the New Jersey Final Regulations. In my opinion none of the New Comments should hold up the processing of the New Jersey Application, however they are corrections that New Jersey will need to address in the future. That being said if you decide to not do a deficiency letter Kathy and I will send New Jersey a normal Regulation Review letter so we can track their need for corrections. In the meantime after both of you review the documents please pass them along to OGC for review and NLO concurrence.

Let me know if you have any questions.

Thanks,
Monica

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**COMMENT RESOLUTION ON NEW JERSEY PROPOSED REGULATIONS FROM LETTER
DATED 3/27/2008**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	7:28-12.12 (b)(2)(iii)	20.1403	N/A	C	<p>Criteria for license termination under restricted use</p> <p>New Jersey includes the term "Federal" in 7:28-12.12(b)(2)(iii).</p> <p>New Jersey needs to remove this term in order to meet the Compatibility Category C designation assigned to 10 CFR 20.1403.</p> <p>Comment Resolved: 7:28-12.12</p>
2	7:28-51.1(b)	30.41(a)(6)	N/A	NRC	<p>Transfer of byproduct material</p> <p>New Jersey adopts by reference 30.41(b)(6) which is a Compatibility Category NRC. This is a NRC program element that addresses areas of regulation that cannot be relinquished to Agreement States pursuant to the Atomic Energy Act or provisions of 10 CFR regulations. The State should not adopt 10 CFR 30.41(b)(6).</p> <p>New Jersey should not incorporate by reference 10 CFR 30.41(b)(6) in order to meet the Compatibility Category NRC designation assigned to 10 CFR 30.41(b)(6).</p> <p>Comments Stands: New Jersey attempts to resolve this comment in 7:28-51.1(b)(6) however it states that they do not adopt 10 CFR 30.41(b)(6). This should be changed to say that they do not adopt 10 CFR 30.41(a)(6) by reference.</p> <p>Comment Incorrect: See New Comment 5: New Jersey does not adopt 30.41(a)(6), however (a)(6) does not exist and this should read</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
				30.41(b)(6).
3	7:28-53.1	32.11	N/A	NRC <p>Introduction of byproduct material in exempt concentrations into products or materials and transfer of ownership or possession: Requirements for license</p> <p>New Jersey incorporates 10 CFR 32.11 by reference. However due to a rule change in 2007 10 CFR 32.11 was changed back to a Compatibility category NRC and should therefore not be incorporated by reference.</p> <p>New Jersey needs to not incorporate 10 CFR 32.11 by reference in order to meet the Compatibility Category NRC designation assigned to 10 CFR 32.11.</p> <p>Comment Resolved: 7:28-53.1(b)(2)</p>
4	7:28-53.1	32.12	N/A	NRC <p>Same: Records and material transfer reports</p> <p>New Jersey incorporates 10 CFR 32.12 by reference. However due to a rule change in 2007 10 CFR 32.12 was changed back to a Compatibility category NRC and should therefore not be incorporated by reference.</p> <p>New Jersey needs to not incorporate 10 CFR 32.12 by reference in order to meet the Compatibility Category NRC designation assigned to 10 CFR 32.12.</p> <p>Comment Resolved: 7:28-53.1(b)(3)</p>
5	7:28-58.1(b)(16)	40.41 (d), (e)(1), (e)(3), and (g)	N/A	NRC <p>Terms and conditions of licenses</p> <p>New Jersey incorporates 10 CFR 40.41 (d), (e)(1), and (e)(3) by reference. These are Compatibility Category NRC and should not be incorporated by reference.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>New Jersey needs to amend 7:28-58.1(b)(16) to state "10 CFR 40.41(d), (e)(1), (e)(3), and (g) Terms and..." in order to meet the Compatibility Category NRC designation assigned to 10 CFR 40.41 (d), (e)(1), (e)(3), and (g).</p> <p>Comment Resolved: 7:28-58.1(b)(16)</p>
6	7:28-59.1 (b)(3) and (c)(18-20)	61.16	N/A	NRC	<p>Other Information</p> <p>Although New Jersey states that they do not incorporate 10 CFR 61.16 by reference in 7:28-59.1(b)(3), they state in 7:28-59.1(c)(18-20) that this section is incorporated by reference with specified changes.</p> <p>New Jersey needs to keep 7:28-59.1(b)(3) and delete 7:28-59.1(c)(18-20) in order to meet the Compatibility Category NRC designation assigned to 10 CFR 61.16.</p> <p>Comment Resolved: 7:28-59.1</p>
7	7:28-59.1 (b)(4) and (c)(22-23)	61.23(i)(j)	N/A	NRC	<p>Standard Issuance of a License</p> <p>Although New Jersey states that they do not incorporate 10 CFR 61.23(j) by reference in 7:28-59.1(b)(4), they state in 7:28-59.1(c)(22-23) that this section is incorporated by reference with specified changes.</p> <p>New Jersey needs to keep 7:28-59.1(b)(4) and delete 7:28-59.1(c)(22-23) in order to meet the Compatibility Category NRC designation assigned to 10 CFR 61.23(i)(j).</p> <p>Comment Resolved: 7:28-59.1</p>
8	7:28-62.1 (b)(14)	150.32	N/A	NRC	<p>Funds for reclamation or maintenance of byproduct material</p> <p>New Jersey has a wrong reference in</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>7:28-62.1(b)(14). It should read "10 CFR 150.32, Funds for..."</p> <p>New Jersey needs to make the above change in order to be Compatible with 10 CFR 150.32.</p> <p>Comment Resolved: 7:28-62.1 (b)(15).</p>

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</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
				meet the Compatibility Category NRC designation assigned to 10 CFR 20.2203(c).
4	7:28-6.1	20.2206(a)(1), (a)(3), (a)(4), & (a)(5)	10 CFR 20	<p data-bbox="855 394 1571 436">Reports of Individuals Monitoring</p> <p data-bbox="855 478 1571 709">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 data-bbox="855 751 1571 972">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	<p data-bbox="855 1024 1571 1056">Transfer of byproduct material</p> <p data-bbox="855 1098 1571 1255">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 data-bbox="855 1297 1571 1451">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	<p data-bbox="855 1493 1571 1524">Purpose and Scope</p> <p data-bbox="855 1577 1571 1734">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 data-bbox="855 1776 1571 1871">New Jersey needs to add 10 CFR 32.1(c)(1) to 7:28-53.1(b) [sections not incorporated by reference] in order</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					to meet the Compatibility Category NRC designation assigned to 10 CFR 32.1(c)(1).
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</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					35.63(a), (b), (c), & (d).
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</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					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.