

provisional teacher three times during the first year of mentoring for purposes of certification. All performance evaluations shall be aligned with the Professional Standards for Teachers as defined in N.J.A.C. 6A:9-3.3 and reported on State-developed forms. Performance evaluations for career and technical education teachers shall also include career and technical education knowledge and skills.

(b) Each teacher shall be observed as described in this section, at least three times during each school year but not less than once during each semester, and the observation shall occur after the provisional teacher assumes full responsibility of a classroom.

Recodify existing (b) and (c) as (c) and (d) (No change in text.)

## ENVIRONMENTAL PROTECTION

### (a)

#### ENVIRONMENTAL MANAGEMENT

#### DIVISION OF ENVIRONMENTAL SAFETY AND HEALTH

#### COMMISSION ON RADIATION PROTECTION

#### Radiation Protection Programs

**Adopted Amendments: N.J.A.C. 7:28-1.5, 2.3, 2.5, 2.8, 2.13, 3.2, 3.3, 3.12, 4.1, 4.3, 4.4 through 4.7, 4.9, 4.10, 4.16 through 4.18, 4.21, 4.22, 4.24, 4.26, 4.27, 6.1, 12.12, 18.1, 19.2, 19.10, 19.13 through 19.15, 19.17, 20.1, 20.6, 20.11, 20.12, 22.2 through 22.10, 22.12, 22.13, 24.8, 41.2, 41.3, 41.4, 48.7, 50.1, 51.1, 52.1, 53.1, 54.1, 55.1, 56.1, 57.1, 58.1, 59.1, 60.1, 61.1, 62.1, 63.1, 64.2, and 64.4**

**Adopted Repeals: N.J.A.C. 7:28-4.8 and 22.14**

Proposed: April 15, 2013, at 45 N.J.R. 806(a).

Adopted: April 8, 2014, by Bob Martin, Commissioner, Department of Environmental Protection and April 3, 2014, by the Commission on Radiation Protection, Julie K. Timins, Chair.

Filed: April 9, 2014, as R.2014 d.083, **with substantial and technical changes** not requiring additional public notice (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 13:1B-1 et seq., 13:1D-1 et seq., and 26:2D-1 et seq.

DEP Docket Number: 03-13-03.

Effective Date: May 5, 2014.

Expiration Date: May 9, 2020.

The rule adoption can also be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

The Department of Environmental Protection (Department) and the Commission on Radiation Protection (CORP) are adopting amendments and repeals to the Radiation Protection Programs rules at N.J.A.C. 7:28.

New Jersey has a comprehensive radiation protection program encompassing x-ray machines, naturally occurring or accelerator produced radioactive material (NARM), radon, cleanup of radioactively contaminated sites, monitoring around nuclear power plants, emergency preparedness and response to radiological incidents including transportation accidents, and requirements for non-ionizing sources of radiation. Additionally, there are requirements for licensure and certification of people – radiological technologists, nuclear medicine technologists, radon testers and mitigators, and qualified medical physicists.

New Jersey became an Agreement State on September 30, 2009. As part of the Agreement State process, the State promulgated rules to regulate users of source, special nuclear, and byproduct materials, which were previously regulated by the U.S. Nuclear Regulatory Commission (NRC). (See 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), and 41 N.J.R. 3415(a).) The within adopted amendments correct errors that were made

in the 2008 adoption and incorporate changes that have been made to NRC rules since 2008, in order that the State's rules remain compatible with the Federal rules. The amendments also adjust fees, update contact information and cross references, and modify financial assurance requirements related to diffuse NARM licensees and remediation of radiation-contaminated sites.

#### Summary of Public Comments and Agency Responses:

1. Ira Garlick, M.S., DABR, St. Barnabas Medical Center
2. Pamela J. Henderson, US Nuclear Regulatory Commission
3. Charles Mateo, Hackensack University Medical Center
4. Thomas Piccoli, Monmouth Medical Center
5. Tod Richards, Hackensack University Medical Center
6. Robert Shomo, Atlanticare Cancer Care Institute
7. Eric Weiss, M.S., DABR, Hackensack University Medical Center

The comments received and the Department's responses are summarized below. The number(s) in parentheses after each comment identify the respective commenter(s) listed above.

#### N.J.A.C. 7:28-2.5 Protective devices, systems, or mechanisms

1. COMMENT: N.J.A.C. 7:28-2.5(c) should allow facilities 30 days to repair a device, system, or mechanism that was designed for protection against radiation, instead of prohibiting use until the equipment is repaired. (6)

RESPONSE: The purpose of the rules is to ensure that people are not exposed to unnecessary radiation. If a device that is designed to protect people from exposure to radiation is not functioning, the facility must repair the device prior to its next use; continued use of the malfunctioning unit could result in exposure to unnecessary radiation.

#### N.J.A.C. 7:28-22 Quality Assurance Programs for Medical Diagnostic X-ray Installations

2. COMMENT: If the intent of the proposed rule is for the Department's inspectors to eventually perform all of the quality control (QC) tests on medical radiation-producing equipment in the State, and determine their own tests results, then the proposed rule is appropriate. However, if the amendment is proposed for any other reason, it is an unnecessary waste of time and resources and serves to undermine the qualifying certification/credentials of the medical physicist performing these tests. (5)

RESPONSE: It is not clear to which provision of the rules the commenter refers; however, quality assurance (QA) and quality control (QC) provisions are in N.J.A.C. 7:28-22. It is not the purpose of the amendments to Subchapter 22 to have the Department inspectors perform the required QC tests, nor is the Department attempting to second-guess the medical physicist's review of a facility's tests. Responsibility to perform the tests at the required frequencies remains with the facility under the amended rules. The medical physicists' responses on the annual QC surveys required at N.J.A.C. 7:28-22.8, 22.9, and 22.10 ensure that QC tests are properly performed and that facilities are producing high quality radiological images at the lowest possible human exposure to radiation. The necessity of maintaining records is discussed in the Response to Comments 3 through 6 below.

3. COMMENT: In the age of digital imaging, it is an unnecessary burden to maintain the images for quality control tests for the purpose of verifying the physicist's evaluation of the images reviewed. (1)

4. COMMENT: Images of all tests performed are not needed since the results are contained in the certified medical physicist's report. The reason for maintaining test images is to verify that tests were actually performed. The recordkeeping requirements would create a huge waste of film and digital space. The Department needs to trust certified medical physicists. (3, 7)

5. COMMENT: Maintaining the images of the quarterly light field/x-ray field alignment would be a burden to hospitals and large imaging centers and problematic to store and retrieve. The tests are performed quarterly, and the quantity of documentation per test is substantial. If the purpose of maintaining the images is to determine whether the quarterly test was performed, the State should not question board certified medical physicists. (1, 4, 6)

6. COMMENT: Only tests that failed should be maintained. (1)

RESPONSE TO COMMENTS 3 THROUGH 6: It is not clear to which provision of the rules the commenters refer; however, QA and QC provisions are in N.J.A.C. 7:28-22. The purpose of the amendments to the record retention provisions of N.J.A.C. 7:28-22 is to further specify what constitutes a test record and establish the length of time that images used in the evaluation of the quality control tests required in N.J.A.C. 7:28-22.5, 22.6, and 22.7 must be maintained.

The rules require facilities to perform QC tests at various frequencies throughout the year. These tests can be performed by persons other than New Jersey certified medical physicists, and in most facilities are performed by the facility employed staff. If a facility does not have a full-time medical physicist to perform the tests, the facility retains a medical physicist to perform the annual review, and relies on that review to identify deficiencies in the facility's QA program. In order to effectively evaluate a program, the medical physicist should review test images and the paperwork produced by the facility. The Department and CORP respect the expertise of the New Jersey certified medical physicist; the amendments to the rules should not be interpreted as questioning the ability of the medical physicists to perform the annual medical physicist quality control survey.

Maintaining the tests films/images for one year should not be burdensome to a facility. Images do not need to be kept in hard copy. Digital storage is available at a relatively low cost, and can be readily reused. If a facility uses digital images, the images can be stored on a computer, CD or external hard drive for retrieval at a later date. The Department and/or the medical physicist can review the image on the monitor to ensure that a test was properly performed. Of the four test items listed in N.J.A.C. 7:28-22.5(j)3, only item 8 (quarterly x-ray field/light field alignment test) would need to be performed if the facility has digital equipment. The remaining three test items are not applicable to digital equipment. Medical facilities that do not use digital images generally have very few pieces of x-ray equipment; therefore, although the facility is required to perform more test items under N.J.A.C. 7:28-22.5(j)3 than a facility that uses digital equipment, recordkeeping should not be burdensome, as the number of records the facility generates is correspondingly lower. The Department recognizes that there may be some inconvenience to facilities as a result of the record retention requirements; however, it is necessary that the medical physicist have the records available for the required annual review. As stated above, the annual review is a means by which a facility can identify deficiencies in its QA program. Moreover, record retention is necessary in order that the records are available for Department review, if needed.

**N.J.A.C. 7:28-22.6 Quality assurance program for medical diagnostic fluoroscopic equipment**

7. COMMENT: A facility should not need to keep images (film or digital) of all monthly QC tests performed for phantom images (fluoro video monitor), as required at N.J.A.C. 7:28-22.6(i)3. The results are contained in the certified medical physicist's report. Since images of low contrast/high contrast tests require the results to be compared to a baseline created from past test readings, test images are not needed. The Department needs to trust New Jersey certified medical physicists. (3, 7)

8. COMMENT: The monthly fluoroscopic phantom image test is not necessary and not practicable in many institutions. Images should be evaluated on the monitor and not printed and stored. (6)

9. COMMENT: The monthly fluoroscopic phantom image is a test to evaluate the monitor and is not a recorded image test. The image on the monitor cannot be compared with the image that is stored on film or on digital media. The regulation limits the phantom image test to the monitor only. (1, 4)

RESPONSE TO COMMENTS 7 THROUGH 9: The Department agrees that maintaining the image of the fluoroscopic phantom image test is not an appropriate means of reviewing the accuracy of the test, since the image can be evaluated only while displayed on the fluoroscopic monitor. Saving the digital image to display it later, or printing the image on film to review in hard copy, may not show the same quality and results as when it the image was first evaluated on the monitor. Therefore, the Department is modifying the rule on adoption to delete proposed N.J.A.C. 7:28-22.6(i)3.

**N.J.A.C. 7:28-22.7 Quality assurance program for diagnostic computed tomography equipment**

10. COMMENT: Maintaining all images for computed tomography QC test items 3 and 4 (CT number for water and field uniformity) for 30 days, as required by N.J.A.C. 7:28-22.7(j)2, and items 6 through 8 (low contrast resolution, high contrast spatial resolution, and noise) for one year, as required by N.J.A.C. 7:28-22.7(j), is a burden to hospitals. (1, 6)

RESPONSE: No facility in the State has more than three computed tomography (CT) units, and in most cases item number 2 of Table 3 (daily film processor QC test) does not apply. The test applies only to CT images processed through a film processor. At most facilities, CT images are never processed through a film processor; instead, CT images are electronically sent, viewed, and interpreted on a computer monitor. Maintaining the tests films or images should not be burdensome to a facility. Although items 3 and 4 are performed daily, and 6 through 8 are performed monthly, the images can be stored on CD or an external hard drive, thereby freeing space in the facility's network storage. These tests are required to be performed by the facility, and can be performed by persons other than New Jersey certified medical physicists; in most facilities, the tests are performed by the facility's staff. The purpose of maintaining the images is to verify that the tests were performed properly, and to assist the medical physicists in their review of a facility's QA program during the required annual medical physicist QC survey. In order to effectively evaluate a program, the medical physicist must be able to review test images and the paperwork produced by the facility.

**Nuclear Regulatory Commission Compatibility Comments**

11. COMMENT: New Jersey incorporated by reference certain rules that are categorized as Compatibility NRC, meaning that the NRC and not the Agreement State has jurisdiction. Therefore, they must be excluded from incorporation by reference. (2)

RESPONSE: The Department and CORP agree, and are modifying the rules on adoption to conform to the NRC requirements. The NRC citations that the commenter raised are identified in Table 1 below. The corresponding modifications being made to the rules on adoption are also shown in Table 1.

**Table 1**

**Modifications to N.J.A.C. 7:28 on adoption to meet the NRC Compatibility Requirements**

<b>NRC Citation</b>	<b>Modification to the Rules on Adoption</b>
• 10 CFR 30.4 Definition: Commencement of Construction	Add "commencement of construction paragraph 2" to N.J.A.C. 7:28-51.1(b)2
• 10 CFR 30.4 Definition: Construction, paragraph 9(ii)	Add "construction paragraph 9(ii)" to N.J.A.C. 7:28-51.1(b)
• 10 CFR 36.2 Definition: Commencement of Construction, paragraph 2	Add "Commencement of Construction - paragraph 2" to N.J.A.C. 7:28-56.1(b)
• 10 CFR 36.2 Definition: Construction, paragraph 9(ii)	Add "Construction paragraph 9(ii)" to N.J.A.C. 7:28-56.1(b)
• 10 CFR 40.4 Definition: Commencement of Construction	Add "Commencement of Construction - paragraph 2" to N.J.A.C. 7:28-58.1(b)
• 10 CFR 40.4 Definition: Construction, paragraph 9(ii)	Add "Construction paragraph 9(ii)" to N.J.A.C. 7:28-58.1(b)
• 10 CFR 70.4 Definition: Commencement of Construction	Add "Commencement of Construction - paragraph 2" to N.J.A.C. 7:28-60.1(b)2
• 10 CFR 70.4 Definition: Construction, paragraph 9(ii)	Add "Construction paragraph 9(ii)" to N.J.A.C. 7:28-60.1(b)2
• 10 CFR 32.30 Certain industrial devices containing byproduct material: Requirements for license to manufacture, process, produce, or initially transfer	Add 10 CFR 32.30 as N.J.A.C. 7:28-53.1(b)20

- 10 CFR 32.31 Certain industrial devices containing byproduct material: Safety criteria Add 10 CFR 32.31 as N.J.A.C. 7:28-53.1(b)21
- 10 CFR 32.32 Conditions of licenses issued under §32.30: Quality control, labeling, and reports of transfer Add 10 CFR 32.32 as N.J.A.C. 7:28-53.1(b)22
- 10 CFR 19.14(a) Presence of representatives of licensees and workers during inspections The State incorporated 10 CFR 19.14(a) by reference with changes, removing the language that made this section NRC Compatibility. However this section was also included in N.J.A.C. 7:28-50.1(b) making it not incorporated by reference. Therefore, 10 CFR 19.14(a) will be removed at N.J.A.C. 7:28-50.1(b)4 and left as incorporated with changes.
- 10 CFR 70.73 Renewal of licenses Add 10 CFR 70.73 as N.J.A.C. 7:28-60.1(b)33

12. COMMENT: NRC regulation 10 CFR 35.57(b)(2) was incorporated without changes, thereby leaving in the rule language regarding master materials licenses, over which New Jersey has no authority. Master materials licenses are issued to Federal facilities, which are not regulated by New Jersey. (2)

RESPONSE: At N.J.A.C. 7:28-55.1, because the Department and CORP did not replace "Commission" with "US NRC," the rule indicates that the Department issues master materials licenses. Master material licenses or permits are issued exclusively by the NRC to Federal facilities. The Department has no authority to regulate Federal facilities. The Department and CORP agree with the commenter and are modifying N.J.A.C. 7:25-55.1(c) on adoption to add paragraph 43, which replaces "Commission" with "U.S. NRC." Adopted N.J.A.C. 7:25-55.1(c)43 also adds "or U.S. NRC" before each instance of "Agreement State," as discussed in the Summary of Agency-Initiated Changes below.

#### Nuclear Regulatory Commission Waiver Comments

13. COMMENT: The Department listed 10 CFR 32.1(c)(2) in N.J.A.C. 7:28-53.1(b) as not incorporated by reference, but also listed it under N.J.A.C. 7:28-53.1(c) as incorporated with changes. This creates a conflict in the rules. (2)

RESPONSE: When the NRC changed the Atomic Energy Act to include discrete sources of radium-226 and accelerator-produced radioactive materials under the definition of byproduct material, there was a waiver issued to states that were not yet Agreement States so that they could continue to regulate these materials until August of 2009. The Federal rule at 10 CFR 32.1(c)(2) relates to the waiver. As New Jersey became an Agreement State in September 2009, and August 2009 has passed, there is no need to incorporate rule sections that reference the waiver date. The inclusion of 10 CFR 32.1(c)(2) under N.J.A.C. 7:28-53.1(c) as incorporated by reference with changes was in error; therefore, N.J.A.C. 7:28-53.1(c)6 is deleted on adoption.

The Department and CORP reviewed other subchapters for similar errors and found that 10 CFR 30.3(b) through (d) was proposed under N.J.A.C. 7:28-51.1(b) as not incorporated by reference and also under N.J.A.C. 7:28-51.1(c) as incorporated by reference with changes. In addition, 10 CFR 35.13(a) was included in N.J.A.C. 7:28-55.1(b) as not incorporated by reference, when only 10 CFR 35.13(a)(1) and (2) should be identified as not incorporated. The Department and CORP have corrected these errors, as explained in the Summary of Agency-Initiated Changes below.

#### Dose Calibrator

14. COMMENT: N.J.A.C. 7:28-55.1(b) states that New Jersey does not incorporate 10 CFR 35.63(b)(2)(i) through (iii) and (c)(3)(i) through (iii) regarding dose calibrators. However, in N.J.A.C. 7:28-55.1(c), New

Jersey appears to adopt those same sections by reference with changes (2).

RESPONSE: The provisions were mistakenly incorporated with changes. The Federal Standards Analysis of the September 2008 proposal of rules as part of the initial Agreement State process (40 N.J.R. 2309(a) at 2366) stated why 10 CFR 35.63(b)(2)(i) through (iii) and (c)(3)(i) through (iii) were not incorporated by reference. The NRC rule requires the use of a dose calibrator for only certain administrations to humans. Dose calibrators provide a check on the prescribed dose, as well as the prescribed radionuclide of radiopharmaceuticals. The Department and CORP considered an actual example of a misadministration of a dose of radiopharmaceuticals to demonstrate that the benefits of using a dose calibrator outweigh the costs. Therefore, the Department did not incorporate the Federal rule, but require licensees to use a dose calibrator before administering radiopharmaceuticals. N.J.A.C. 7:28-55.1 is modified on adoption to delete N.J.A.C. 7:28-55.1(c)42 through 45, thus leaving these sections as not incorporated by reference, which was the original intent.

#### Summary of Agency-Initiated Changes:

In addition to the modifications on adoption discussed above in response to comments, and modifications to update addresses, the Department and CORP are modifying the rules on adoption to make changes of three types. The first type relates to those facilities and materials over which the State has no authority, such as discussed in response to Comment 11 above, and in the proposal Summary at 45 N.J.R. at 812. The second type of modification relates to the incorporation of the Federal rules by reference, and is necessary in order that the incorporated rule makes sense as applied to the regulated community. For instance, when the NRC rule says "an equivalent Agreement State license," the rule as incorporated into the State's rules by reference has been modified to add "or NRC" after "Agreement State," as explained in the proposal Summary (45 N.J.R. at 812). Other modifications on adoption remove "of this chapter" after specific NRC regulation citations. For example, the revised NRC rule at 10 CFR 30.32(g)(1)(ii) states "Contain the information identified in §32.210(c) of this chapter." The Department and CORP have deleted "of this chapter," because "this chapter" refers to the Code of Federal Regulations, rather than N.J.A.C. 7:28. The modifications on adoption make similar replacements. The modifications on adoption allow the regulated community to follow the correct citations as explained in the proposal Summary (45 N.J.R. 812-813).

The third type of modification on adoption addresses instances in the State rules where citations to NRC rules that have not been incorporated by reference into the State's rules have been inadvertently retained. For example, as written, the State's rules incorporate by reference Federal rules that refer to 10 CFR 20.1402 or 1403, which are the NRC's decommissioning regulations. The NRC's decommissioning regulations are not incorporated by reference into the State's rules, so certain modifications on adoption replace citations to the NRC's decommissioning regulations with N.J.A.C. 7:28-12, the Department's decommissioning regulation. Also, when the NRC rules reference 10 CFR 20.1403, which is the NRC's restricted use citation that has not been incorporated by reference into the State rules, the Department and CORP replace this citation with the term "restricted use." Similarly, certain modifications on adoption correct cross-references to citations that were not incorporated by reference into the State's rules.

N.J.A.C. 7:28-6.1(d) is modified on adoption to add paragraph 21, deleting "of this part." from 10 CFR 20.1501(b). The Department does not use the word "part" to describe its regulations.

N.J.A.C. 7:28-51.1(c) is modified on adoption to specify that "Commission" means U.S. NRC in 10 CFR 30.15(a)(2)(iii) and 30.32(g)(1) and (2); to delete the phrase "of this chapter" in 10 CFR 30.19(b), 30.20(b), 30.22(a) and (b), and 30.32(g); and to replace NRC parts with Department subchapters in 10 CFR 30.22(a).

N.J.A.C. 7:28-51.1(c) is modified on adoption to delete paragraphs 3 through 6 because 10 CFR 30.3(b) through (d) pertain only to entities under NRC jurisdiction. The State does not have authority to regulate Federal agencies or Indian tribes.

The Federal rule at 10 CFR 30.35(c)(6) references the NRC decommissioning regulations at 10 CFR 20.1402, which the Department did not incorporate in the 2008 adoption, so the NRC citation was replaced with the citation for the Department's decommissioning regulations, N.J.A.C. 7:28-12.1, in N.J.A.C. 7:28-51.1(b). Section 10 CFR 30.35(e)(1)(B) references 10 CFR 20.1403, which is the NRC's restricted use criteria and were not incorporated by the Department in the original 2008 adoption. The Department's restricted use criteria are also in N.J.A.C. 7:28-12.1, so the NRC section was reworded to specify that the decommissioning funding plan should cover the cost of either unrestricted or restricted use. N.J.A.C. 7:28-51.1(c)49 also adds "or restricted" after "unrestricted," so that "provided that if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria" could be deleted. The NRC requires applicants or licensees to demonstrate that further reductions in residual radioactivity necessary to comply with the unrestricted release criteria would result in net public harm or were not being made because the residual levels associated with restricted conditions are "as low as reasonably achievable" (ALARA). The Department does not require such a demonstration.

N.J.A.C. 7:28-53.1(b) is modified on adoption to add 10 CFR 32.30, 32.31, 32.32, and 32.211. These NRC regulations are categorized as NRC compatibility and thus the Department and CORP have no authority to adopt them.

N.J.A.C. 7:28-53.1(c) is modified on adoption to add "or the U.S. NRC" after "Agreement State" at 32.15(b), 32.55, 32.56(b), and 32.62(e), and delete "of this chapter" at 32.15(b), 32.56(b), and 32.62(e). In addition, N.J.A.C. 7:28-53.1(c) is modified on adoption to ensure that any manufacturer and/or distributor of generally licensed tritium or promethium devices in New Jersey must report distribution to any Agreement State or NRC State. An NRC State is a state that is not an Agreement State and, therefore, is regulated by the NRC. Delaware is an example of an NRC State. Therefore, 10 CFR 32.56(b) was modified appropriately.

N.J.A.C. 7:28-55.1(b) is modified on adoption at paragraph (b)4 to include 10 CFR 35.13(a)(1) and (2) as not adopted by reference. 10 CFR 35.13(a)(1) refers to Federal facilities and Indian tribes, which the Department does not regulate. The Federal rule at 10 CFR 35.13(a)(2) refers to a waiver provision that has since expired. When the NRC changed the Atomic Energy Act to include discrete sources of radium-226 and accelerator-produced radioactive materials under the definition of byproduct material, there was a waiver issued to states that were not yet Agreement States so that they could continue to regulate these materials until August of 2009. As New Jersey became an Agreement State in September 2009, and August 2009 has passed, there is no need to incorporate rule sections that reference the waiver date.

N.J.A.C. 7:28-55.1(c) is modified on adoption to delete "except that --" because this refers to subsections 35.13(a)(1) and (2), which were not incorporated by reference. (See discussion above.) N.J.A.C. 7:28-55.1(c) is further modified on adoption to add "or the U.S. NRC" after "Agreement State" at 10 CFR 35.51(b)(2).

N.J.A.C. 7:28-58.1(b) is modified on adoption to add 10 CFR 40.52 and 10 CFR 40.53 as not incorporated by reference. The NRC recently adopted amendments to 10 CFR Part 40, at which time licensees had the opportunity to comment on them. The NRC amendments are compatibility NRC and, as such, are outside of the State's jurisdiction. (See Comment 11.) The amendments to the Federal rules were published on May 29, 2013, which was after the April 15, 2013, publication of the proposal to amend N.J.A.C. 7:28. Because of NRC amendments are designated compatibility NRC, the State has no authority; however, in the absence of a modification on adoption, the NRC amendments would be incorporated into the State's rules by reference. (See proposal Summary, 45 N.J.R. 806(a) at 812.) Accordingly, the rule is modified on adoption to prevent the improper incorporation.

N.J.A.C. 7:28-58.1(c) is modified on adoption to add paragraphs 22 and 23, which replace the reference to the NRC decommissioning regulation (10 CFR 20.1402) at 10 CFR 40.36(c)(5) and 10 CFR 40.36(d)(1)(B) with the State's decommissioning regulation citation, N.J.A.C. 7:28-12.1. References to 10 CFR 20.1403, the NRC's restricted use criterion, which were not incorporated in the 2008 adoption, were

reworded to specify that the decommissioning funding plan should cover the cost of either unrestricted or restricted use. The State's restricted use criteria are at N.J.A.C. 7:28-12.1.

N.J.A.C. 7:28-58.1(c) is modified on adoption by the addition of paragraph (c)34 to delete "or Appendix A to this part." from 10 CFR 40.46(b). The Department and CORP did not incorporate Appendix A in the 2008 adoption, so this cross-reference is not applicable.

N.J.A.C. 7:28-60.1(c) is modified on adoption to add paragraphs 13 and 14, delete the NRC decommissioning regulation citation 10 CFR 20.1402 at 10 CFR 70.25(c)(5) and 70.25(e)(1)(B), which the Department did not incorporate, and add the State's decommissioning regulation citation, N.J.A.C. 7:28-12.1. References to 10 CFR 20.1403, the NRC's restricted use criterion, which were not incorporated in the 2008 adoption, were reworded to specify that the decommissioning funding plan should cover the cost of either unrestricted or restricted use. The State's restricted use criteria are at N.J.A.C. 7:28-12.1.

#### Federal Standards Analysis

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

The adopted amendments and repeals, except as discussed below, are promulgated in order to comply with the Federal requirements for Agreement States. Accordingly, except as discussed below, the rules do not exceed Federal standards.

As discussed in the summary of proposed amendments to Subchapter 12, Remediation Standards for Radioactive Materials (45 N.J.R. at 810), the incorporation by reference of 10 CFR 20.1403(c), which mandates a one percent real rate of return on investments for financial assurance for decommissioning, is amended. Adopted N.J.A.C. 7:28-12.12(b)2 allows the Department flexibility to use a one percent real rate of return for short-lived radionuclides, but a declining real rate of return for longer-lived radionuclides. The provision in the Federal rule is among those that Agreement States are given discretion on whether to incorporate. The policy rationale for N.J.A.C. 7:28-12.12(b)2 is discussed in the proposal Summary, 45 N.J.R. at 810.

It is not possible at this time to determine the economic impact of adopted N.J.A.C. 7:28-12.12(b)2. For facilities containing short-lived nuclides, the amendment is the same as the Federal rule. For facilities with long-lived radionuclides, the rate of return on investments for financial assurance in the decommissioning of a facility will be based on site-specific conditions. Thus, there is no accurate way to determine whether or not the adopted amendment relating to long-lived radionuclides is more stringent than the Federal standard.

**Full text** of the adopted amendments follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from the proposal indicated in brackets with asterisks \*[thus]\*):

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 7:28-1.5 Communications

(a) Communications concerning this chapter, or matters relating to radiation protection, may be addressed to the New Jersey Department of Environmental Protection, Radiation Protection and Release Prevention, Mail Code 25-01, PO Box 420, Trenton, New Jersey 08625-0420. Telephone: (609) 984-5636, Fax: (609) 633-2210. The physical location of the office is 25 Arctic Parkway, Ewing, New Jersey 08638. Applications and forms may be obtained from the website at <http://www.state.nj.us/dep/rpp/index.htm>.

(b) (No change.)

#### SUBCHAPTER 2. USE OF SOURCES OF IONIZING RADIATION AND SPECIAL EXEMPTIONS

##### 7:28-2.3 Instruction

(a) (No change.)

(b) All visitors to controlled areas shall be instructed or escorted to prevent unnecessary exposure to radiation. See N.J.A.C. 7:28-6.1 (Standards for protection against radiation) and 7:28-7.4(a)4 (Use of personnel monitoring equipment for visitors).

7:28-2.5 Protective devices, systems, or mechanisms

(a) No person shall operate a radiation-producing machine or utilize radioactive material whenever shielding for the source of radiation permits levels of radiation that exceed or have the potential to exceed the radiation limits specified in N.J.A.C. 7:28-6.1 (Standards for protection against radiation).

(b) (No change.)

(c) No person shall operate a radiation-producing machine or utilize a radioactive material whenever any device, system, or mechanism designed for the protection against radiation provided at the time of manufacture, installation, or retrofitted to the equipment is not operating properly.

7:28-2.8 Special exemptions

The Department, upon application and a showing of hardship or compelling need, with the approval of the Commission, may grant an exemption from any requirement of these rules should it determine that such exemption will not result in any exposure to radiation in excess of the limits permitted by N.J.A.C. 7:28-6, Standards for Protection Against Radiation, or 7:28-12, Remediation Standards for Radioactive Materials.

7:28-2.13 Violations

(a) (No change.)

(b) The Department may impose a civil penalty for a violation of:

1.-2. (No change.)

3. A revocation under N.J.A.C. 7:28-4.16, 51 through 60, or 63.

(c) The Department shall not approve an amendment request to terminate a license or release a facility for unrestricted use in accordance with N.J.A.C. 7:28-12 until the licensee has satisfied all outstanding civil penalties imposed in accordance with this chapter.

SUBCHAPTER 3. REGISTRATION OF IONIZING RADIATION-PRODUCING MACHINES

7:28-3.2 Exemptions from registration for possession of ionizing radiation-producing machines

(a) (No change.)

(b) Electrical equipment that is not primarily intended to produce radiation and that does not produce radiation greater than 0.5 millirem per hour at any readily accessible point five centimeters from its surface is exempt from registration. Production-testing facilities for such equipment shall not be exempt if any individual might receive a radiation dose exceeding the limits established in N.J.A.C. 7:28-6.1.

(c) (No change.)

7:28-3.3 Registration of ionizing radiation-producing machines

(a) (No change.)

(b) All registrations issued for ionizing radiation-producing machines shall expire pursuant to the schedule at N.J.A.C. 7:28-3.12(f) or shall expire one year from the date of initial application as determined by the Department. Registrations are renewable by the registrant for a period of one year upon payment of the fee provided in N.J.A.C. 7:28-3.12.

(c) Applications for new registrations for ionizing radiation-producing machines will be accepted throughout the calendar year. The annual registration fee set forth in N.J.A.C. 7:28-3.12 shall be either prorated from the date the registration is issued until its expiration date pursuant to N.J.A.C. 7:28-3.12(f), except that the Department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year, or shall be assessed in full from the date of application until its expiration date one year later as determined by the Department.

7:28-3.12 Application and annual registration renewal fees for ionizing radiation-producing machines

(a)-(c) (No change.)

(d) Each registrant of an ionizing-radiation-producing machine used in a non-hospital facility (including, but not limited to, doctors' offices, medical facilities, industrial facilities, schools, and government facilities) shall pay:

1. (No change.)

2. In each year after the expiration of the first year of registration established pursuant to (f) below, the annual registration renewal fee per X-ray tube as follows:

NON-HOSPITAL FACILITIES

Machine Category and Description	Annual Registration Renewal Fee Per X-Ray Tube
...	
24N Particle Accelerator Machine (non-medical use) ≤30 kVp	185.00
25N Particle Accelerator Machine (non-medical use) >30 kVp	196.00
...	

(e) (No change.)

(f) The expiration date of each year of registration shall be specified by the Department on the billing invoice sent to each registrant. The registration expiration date shall be based on the first letter of the registrant name as follows:

1. For a registrant whose name begins with a numeric character or A through F, the registration expiration date shall be August 31 of each calendar year;

2.-4. (No change.)

(g)-(j) (No change.)

(k) A fee submitted to the Department is non-refundable.

SUBCHAPTER 4. LICENSING OF DIFFUSE NATURALLY OCCURRING OR DIFFUSE ACCELERATOR PRODUCED RADIOACTIVE MATERIALS

7:28-4.1 Scope and general provisions

(a) The subchapter shall apply to persons who produce, transfer, distribute, or arrange for the distribution, sell, lease, receive, acquire, own, transport, store, dispose, possess, or use any diffuse naturally occurring or diffuse accelerator produced radioactive materials, including TENORM, in this State.

(b) No person shall produce, transfer, distribute, or arrange for the distribution, sell, lease, receive, acquire, own, transport, store, dispose, possess, or use any diffuse naturally occurring or diffuse accelerator produced radioactive materials, including TENORM, in this State unless authorized by a specific license issued by the Department as provided by N.J.A.C. 7:28-4.7 and 4.8, a general State license as provided in N.J.A.C. 7:28-4.5, or an exemption as provided in N.J.A.C. 7:28-4.3. Excepted from this provision are by-product, source and special nuclear materials.

7:28-4.3 Exemption from requirement for a license for production, transfer, distribution, or arrangement of distribution, sale, lease, receipt, acquisition, ownership, possession, or use of all diffuse naturally occurring or diffuse accelerator produced radioactive materials

(a) A person shall be exempt from the requirement to obtain a license for the following activities:

1.-2. (No change.)

3. The person produces, receives, possesses, uses, transfers, distributes, or arranges for the distribution, sells, leases, owns, or acquires materials containing diffuse naturally occurring or diffuse accelerator produced radioactive materials in concentrations not in excess of those exempted in (b) below;

4.-9. (No change.)

(b) (No change.)

(c) If a person produces, transfers, distributes, or arranges for the distribution, sells, leases, receives, acquires, owns, possesses, or uses diffuse naturally occurring radioactive materials or diffuse accelerator-produced radioactive materials, including TENORM, in quantities less than those listed in N.J.A.C. 7:28-4.5(a), they are exempt from the requirement for a license.

**ADOPTIONS**

7:28-4.4 Types of licenses for production, transfer, distribution, or arrangement for distribution, sale, lease, receipt, acquisition, ownership, possession, or use of all diffuse naturally occurring or diffuse accelerator produced radioactive materials

(a)-(b) (No change.)

(c) General licenses requiring registration, described in N.J.A.C. 7:28-4.5(b), are subject to annual certification that the material is still in the licensee's possession and the treatment system is being maintained according to the manufacturer's instructions.

7:28-4.5 General licenses for the transfer, distribution, or arrangement for distribution, sale, lease, receipt, acquisition, ownership, possession, or use of diffuse naturally occurring or diffuse accelerator produced radioactive materials

(a) The following quantities of radioactive substances, when obtained from diffuse naturally occurring materials or diffuse accelerator produced radioactive materials, are generally licensed provided that no person shall at any one time possess or use more than a total of 10 such quantities:

Radioactive Material	Not as a Sealed Source
<u>Radioactive Material</u>	<u>(microcuries)</u>
Beryllium (Be-7)	50
Bismuth 207 (Bi-207)	1
Cadmium 109-Silver 109 (Cd 109 + Ag 109)	10
Cerium 141 (Ce-141)	1
Chromium 51 (Cr-51)	50
Cobalt 57 (Co-57)	20
Germanium 68 (Ge-68)	1
Iron 55 (Fe-55)	50
Manganese 52 (Mn-52)	1
Polonium 210 (Po-210)	0.1
Radium and daughters	0.1
Sodium 22 (Na-22)	10
Vanadium 48 (V-48)	1
Zinc 65 (Zn-65)	10
Beta and/or gamma emitting radioactive material not listed above	1

(b) There are no generally licensed quantities for alpha-emitting materials other than those set forth in N.J.A.C. 7:28-4.5(a) except:

1. A non-community or community water system that treats for uranium is subject to a general license requiring registration, in accordance with this section, notwithstanding the requirements of N.J.A.C. 7:28-58.1.

2. A non-community or community water system that treats for radium may register under a general license requiring registration, in accordance with this section, if the quantity of radium on the treatment media at any one time is less than 10 times the limit in (a) above.

(c) To remain eligible for a general license requiring registration under (b) above:

1. The owner of a non-community or community water system that treats for uranium shall register the system annually with the Department.

2. The owner of a non-community or community water system that treats for radium shall register the system annually with the Department and shall pay the fee required by N.J.A.C. 7:28-64.2(e).

3. The licensee shall verify, correct, and/or supplement the information contained in the request for registration received from the Department. The annual registration information must be submitted to the Department at the address in N.J.A.C. 7:28-1.5, within 30 days of the date of the request for registration, or as otherwise indicated in the request.

**ENVIRONMENTAL PROTECTION**

4. When registering a system, the licensee shall furnish the following information and such other information pertinent to the safe operation of the water treatment system as the Department may request:

i. The name and address of the facility;

ii. The type of treatment system;

iii. A copy of a water treatment maintenance agreement in effect at the time of registration, or proof that the system has been maintained properly during the previous year;

iv. An itemization of all changes in system components, backwash frequency, or water use at the facility during the previous year; and

v. In the case of a uranium treatment system, a mass balance calculation of the total accumulated uranium on the treatment media.

5. A general licensee meeting the criteria of N.J.A.C. 7:28-4.3(b) shall be subject to the bankruptcy notification requirement in N.J.A.C. 7:28-51.1 (10 CFR 30.34(h) incorporated by reference).

(d) Persons who transfer, distribute, or arrange for the distribution, sell, lease, receive, acquire, own, possess, or use items and quantities of radioactive materials set forth in (a) above pursuant to a general license shall not:

1.-4. (No change.)

7:28-4.6 Application for and renewal of specific licenses for transfer, distribution, or arrangement for distribution, sale, lease, receipt, acquisition, ownership, or possession of diffuse naturally occurring or diffuse accelerator produced radioactive materials

(a)-(e) (No change.)

(f) All applicants for initial and renewal applications for specific licenses shall complete the application in its entirety. The Department may accept photocopies of previous relevant applications. Information contained in previous applications, statements, or reports filed with the Department may be incorporated by reference provided that the reference is clear and specific.

(g) (No change.)

Recodify existing (i)-(k) as (h)-(j) (No change in text.)

7:28-4.7 General requirements for approval of an application for an initial specific license or renewal of a specific license for diffuse naturally occurring or diffuse accelerator produced materials

(a) If the Department determines that an applicant meets the requirements of this subchapter and the Act, it may issue an initial specific license or renew a specific license for diffuse naturally occurring or diffuse accelerator produced radioactive materials provided:

1. The applicant is qualified by reason of training and experience to manage the radioactive material as requested in such a manner as to protect health, minimize danger to life or property, and prevent unnecessary radiation;

2. (No change.)

3. The applicant has appointed a radiological safety officer who shall be responsible for rendering advice and assistance on radiological safety.

7:28-4.8 Terms and conditions of general and specific licenses

(a) (No change.)

(b) No license to possess or utilize radioactive material pursuant to this subchapter shall be transferred or assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Department shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.

(c) (No change.)

(d) The Department may incorporate in any license at the time of issuance, or thereafter, all such additional requirements and conditions with respect to the licensee's distribution or arrangement for the distribution, sale, lease, receipt, possession, use, ownership, or transfer of radioactive material as it deems appropriate or necessary in order to assure compliance with this chapter and the Act.

7:28-4.9 Expiration of specific license

Except as provided in N.J.A.C. 7:28-4.10, each specific license shall expire at 12:01 A.M. of the day, in the month and year stated in the license.

Recodify existing N.J.A.C. 7:28-4.11 through 4.15 as 4.10 through 4.14 (No change in text.)

7:28-4.15 Financial assurance and recordkeeping for decommissioning  
(a) (No change.)

(b) The following provisions of 10 CFR 30.35 are not incorporated by reference:

1. 10 CFR 30.35(a)(2).

(c) The following provisions of 10 CFR 30.35 are incorporated by reference with the specified changes:

1. 10 CFR 30.35(b)(1), replace "Each applicant for a specific license" with "Each applicant for or holder of a specific license, as determined by the Department,"

Recodify existing 1.-2. as 2.-3. (No change in text.)

4. 10 CFR 30.35(d), delete "Greater than  $10^{10}$  but less than or equal to  $10^{12}$  times the applicable quantities of appendix B to part 30 in sealed sources or plated foils (For a combination of isotopes, if R, as defined in 30.35(a)(1), divided by  $10^{10}$  is greater than, 1, but R divided by  $10^{12}$  is less than or equal to 1) 113,000";

Recodify existing 3.-4. as 5.-6. (No change in text.)

7. 10 CFR 30.35(g)(3), delete "areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any lead) or";

8. (No change in text.)

7:28-4.16 (No change in text.)

7:28-4.17 Requests for an adjudicatory hearing

(a)-(b) (No change.)

(c) All requests for a contested case hearing shall be submitted in writing to the Department, at Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, Mail Code 401-04L, PO Box 402, \*401 East State Street, 7th Floor,\* Trenton, New Jersey 08625-0402. The request shall contain:

1.-4. (No change.)

(d) (No change.)

Recodify existing N.J.A.C. 7:28-4.19 and 4.20 as 4.18 and 4.19 (No change in text.)

7:28-4.20 Access to information; non-disclosure

(a) Until such time as a final confidentiality determination has been made, access to any information for which a confidentiality claim has been made will be limited to Department employees whose activities necessitate such access and as provided at N.J.A.C. 7:28-4.23 and 4.25.

(b)-(c) (No change.)

7:28-4.21 Confidentiality determinations

(a) Information for which a confidentiality claim has been asserted will be treated by the Department as entitled to confidential treatment, unless the Department determines that the information is not entitled to confidential treatment as provided in this section and N.J.A.C. 7:28-4.22.

(b)-(d) (No change.)

7:28-4.22 (No change in text.)

7:28-4.23 Disclosure of confidential information to other public agencies

(a) The Department may disclose confidential information to persons other than Department employees only as provided in this section or N.J.A.C. 7:28-4.24.

(b) (No change.)

(c) Except as otherwise provided at N.J.A.C. 7:28-4.24, the Department shall notify in writing the applicant who supplied the confidential information of:

1.-4. (No change.)

7:28-4.24 (No change in text.)

7:28-4.25 Disclosure based on imminent and substantial danger

(a) Upon a finding that disclosure of confidential information would serve to alleviate an imminent and substantial danger to public health and the environment, the Department may:

1. Prescribe and make known to the applicant such shorter comment period (N.J.A.C. 7:28-4.21(c)4), post-determination waiting period (N.J.A.C. 7:28-4.21(d)1), or both, as it finds necessary under the circumstances; or

2. (No change.)

(b) (No change.)

7:28-4.26 Security procedures

(a)-(b) (No change.)

(c) All submissions entitled to confidential treatment as determined at N.J.A.C. 7:28-4.21 shall be stored by the Department only in locked cabinets.

(d) (No change.)

7:28-4.27 (No change in text.)

## SUBCHAPTER 6. STANDARDS FOR PROTECTION AGAINST RADIATION

7:28-6.1 Incorporation by reference

(a)-(b) (No change.)

(c) The following provisions of 10 CFR Part 20 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1.-7. (No change.)

8. 10 CFR 20.1406(b);

Recodify existing 8.-10. as 9.-11. (No change in text.)

12. 10 CFR 20.1905(g), Exemptions to labeling requirements;

13. 10 CFR 20.2201(b)(2)(i), Reports of theft or loss of licensed material;

14. 10 CFR 20.2203(c), Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits;

15. 10 CFR 20.2206(a)(1), (3), (4), and (5), Reports of individual monitoring;

16. 10 CFR 20.2301, Application for exemptions; and

17. 10 CFR 20.2401, Violations.

(d) The following provisions of 10 CFR Part 20 are incorporated by reference with the specified changes:

1.-8. (No change.)

9. 10 CFR 20.1003, in the definition of "person" replace "Commission" with "Department of Environmental Protection" and delete "or the Department of Energy (except that the Department shall be considered a person within the meaning of the regulations in 10 CFR chapter I to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission under section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021), the Nuclear Waste Policy Act of 1982 (96 Stat. 2201), and section 3(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842))"

Recodify existing 9.-17. as 10.-18. (No change in text.)

19. 10 CFR 20.1406(c), insert "of 10 CFR Part 20" after Subpart B and replace "Subpart E of this part" with "N.J.A.C. 7:28-12";

20. (No change in text.)

**\*21. 10 CFR 20.1501(b), delete "of this part";\***

Recodify proposed 21.-22. as **\*22.-23.\*** (No change in text.)

**\*[23.]\* \*24.\*** 10 CFR 20.2201(b)(2)(ii), replace "Administrator of the appropriate NRC Regional Office listed in Appendix D to part 20" with "Supervisor, Radioactive Materials Program of the Department";

**\*[24.]\* \*25.\*** (No change in text.)

**\*[25.]\* \*26.\*** 10 CFR 20.2203(b)(2), delete "Privacy Act Information:";

**\*[26.]\* \*27.\*** Replace the text of 10 CFR 20.2203(d) with "All licensees, who make reports under paragraph (a) of this section shall submit the report in writing either by mail or by hand delivery to the Supervisor, Radioactive Materials Program of the Department at the addresses indicated in N.J.A.C. 7:28-1.5;"

**\*[27.]\* \*28.\*** 10 CFR 20.2204, replace "Administrator of the appropriate NRC Regional Office listed in Appendix D to part 20" with "Supervisor, Radioactive Materials Program of the Department";

\*[28.]\* \*29.\* 10 CFR 20.2206(c), replace the second sentence with "The licensee shall submit the report to the Supervisor, Radioactive Materials Program of the Department at the address indicated in N.J.A.C. 7:28-1.5."; and

- \*[29.]\* \*30.\* (No change in text.)  
(e) (No change.)

#### SUBCHAPTER 12. REMEDIATION STANDARDS FOR RADIOACTIVE MATERIALS

7:28-12.12 Requirements pertaining to engineering or institutional controls

- (a) (No change.)  
(b) In order for any remediation under this subchapter requiring engineering controls or institutional controls to meet the standards in N.J.A.C. 7:28-12.9, 12.10, or 12.11(a), the person responsible for conducting the remediation, or licensee, shall, in addition to meeting the provisions of N.J.S.A. 58:10B-13:

1. (No change.)  
2. Provide sufficient financial assurance for the costs of implementing and maintaining the requisite active engineered or institutional controls for an appropriate period of time. Except as set forth in (b)2i below, acceptable financial assurance mechanisms are incorporated by reference at 10 CFR 20.1403(c) as follows:

i. At 10 CFR 20.1403(c)(1), delete "and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;" and add "The adequacy of the trust fund shall be based upon a rate of return to be determined by the Department, based upon site-specific conditions, such that the Department can ensure that sufficient assets are available in the trust funds to maintain engineering controls for an appropriate period of time. Site-specific conditions are the engineering controls and environmental conditions at the property, and the half-lives of radionuclides of concern.

i. For radionuclides that are short-lived (have half-lives of less than 30 years), a one percent annual real rate of return shall be assumed to be acceptable. A higher real annual rate of return shall apply if the licensee demonstrates to the Department that site-specific conditions exist to justify the higher real annual rate of return.

ii. For longer-lived radionuclides, a declining annual real rate of return that begins above one percent and declines below one percent shall be assumed."

- (c) (No change.)

#### SUBCHAPTER 18. MAJOR NUCLEAR FACILITIES

7:28-18.1 Scope

- (a)-(b) (No change.)

(c) The intent of this subchapter is to insure that individuals outside of these facilities receive no radiation exposures from environmental or direct radiation that are in excess of the limits of N.J.A.C. 7:28-6, Standards for Protection against Radiation.

#### SUBCHAPTER 19. RADIOLOGIC TECHNOLOGY

7:28-19.2 Definitions

In addition to the terms defined at N.J.A.C. 7:28-1 and N.J.S.A. 26:2D-1 et seq., the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Position patients" or "positioning patients" means the movement or placement of the x-ray tube, patient, or image receptor (to include cassette, film, digital detector, image intensifier) to achieve a radiographic or fluoroscopic image of human anatomy. For radiation therapy treatment procedures, "position patients" or "positioning patients" means the movement or placement of the ionizing radiation source or the patient to deliver the prescribed radiation treatment.

"Temporary license" means a license issued for a limited period of time in accordance with N.J.A.C. 7:28-19.8.

7:28-19.10 Fees

- (a)-(e) (No change.)

(f) All other applications and associated fees specified in (a)1, 2, and 4 and (b) above shall be submitted to:

Department of Environmental Protection  
Bureau of X-ray Compliance  
Mail Code 25-01  
25 Arctic Parkway  
PO Box 420  
Trenton, New Jersey 08625-0420

7:28-19.13 Requirements for schools of radiologic technology

- (a)-(e) (No change.)

(f) Each school of radiologic technology shall:

1. Comply with N.J.A.C. 7:28-19.11 and 19.12 and the Board's accreditation standards, which are available from the Department's Bureau of X-ray Compliance;

2.-17. (No change.)

18. If the school's curriculum is in chest, dental, orthopedic, podiatric, or urologic radiologic technology, have no more than two consecutive years in which both the first-time mean score and pass rate are below the Board's published minimum standards. Such standards are published on the Bureau of X-ray Compliance website, [www.xray.nj.gov](http://www.xray.nj.gov), and are available in hard copy upon request; and

19. (No change.)

(g) In addition to (f) above, schools of diagnostic radiologic technology and radiation therapy technology shall comply with the JRCERT Standards for an Accredited Educational Program in Radiologic Sciences (JRCERT Standards), incorporated herein by reference, as amended and supplemented. The Board, if it determines that a national accrediting agency's standards are equivalent to the JRCERT Standards, may recognize the national agency's standards. In case of conflict with this subchapter or the Board's accreditation standards, this subchapter and the Board's accreditation standards shall supersede the JRCERT Standards. Copies of the JRCERT Standards and the Board's accreditation standards may be obtained by contacting the Department's Bureau of X-ray Compliance at Mail Code 25-01, PO Box 420, Trenton, NJ 08625-0420 or the JRCERT at 20 N. Wacker Dr., Suite 2850, Chicago, IL 60606 or [www.jrcert.org](http://www.jrcert.org).

7:28-19.14 School of radiologic technology: process for approval; provisional approval; probationary approval; termination of approval; and other general provisions

(a) In order to be Board-approved, a school of radiologic technology shall submit to the Department a complete application, along with the appropriate fee as set forth in N.J.A.C. 7:28-19.10(b). The Department will forward all complete applications to the Board for its consideration. If the application is incomplete, the Department shall notify the school. The school will be provided an opportunity to complete the application within 90 calendar days or receipt of such notice. If after 90 days the application is still incomplete, it will be forwarded as an incomplete application for the Board's consideration. A complete application shall include:

1.-3. (No change.)

4. A report or reports describing the school's policies and procedures in place to ensure that:

i.-ii. (No change.)

iii. The educational curriculum includes all Board required elements, in accordance with N.J.A.C. 7:28-19.13.

(b)-(j) (No change.)

(k) Any Board-approved school that makes a substantial change to its approved program, including, but not limited to, a change in the level of terminal award (such as a certificate to an associate degree, or associate degree to a bachelor degree), or a change in the owner or operator of the program, will be considered a new school and will be subject to the application procedure of this section and fee specified in N.J.A.C. 7:28-19.10(b). The school must notify the Board of any change, in accordance with N.J.A.C. 7:28-19.13(f)16.

(l)-(m) (No change.)

## 7:28-19.15 List of approved schools

A list of approved schools of radiologic technology may be obtained from the Bureau of X-ray Compliance website at [www.xray.nj.gov](http://www.xray.nj.gov).

## 7:28-19.17 Procedures for requesting and conducting adjudicatory hearings

(a)-(d) (No change.)

(e) The applicant or violator shall send the request for an adjudicatory hearing to:

The Office of Legal Affairs  
New Jersey Department of Environmental Protection  
Mail Code 401-04L  
401 East State Street, \*[Fourth]\* \*Seventh\* Floor  
PO Box 402  
Trenton, New Jersey 08625-0402  
Attention: Hearing Request; and

New Jersey Department of Environmental Protection  
Bureau of X-ray Compliance  
Mail Code 25-01  
25 Arctic Parkway  
PO Box 420  
Trenton, New Jersey 08625-0420  
Attention: Hearing Request

(f) (No change.)

## SUBCHAPTER 20. PARTICLE ACCELERATORS FOR INDUSTRIAL AND RESEARCH USE

## 7:28-20.1 Scope

(a)-(b) (No change.)

(c) In addition to the requirements of this subchapter, all registrants of particle accelerators are subject to all other applicable requirements of N.J.A.C. 7:28-1 through 8, 10, and 13.

## 7:28-20.6 Training program on the safe use of each particle accelerator

(a) The registrant shall establish and maintain a training program on the safe use of each particle accelerator. The registrant shall not permit any person to operate the particle accelerator until that person has successfully completed the training program consisting of the 10 items set out below. The registrant shall ensure that the training program is conducted under the direction of the PASO or an individual with equivalent qualifications in conjunction with the qualified machine operator and that the program shall include all of the following:

1.-6. (No change.)

7. Instruction on the requirements of this subchapter and N.J.A.C. 7:28-1 through 8, 10, and 13;

8.-10. (No change.)

(b)-(f) (No change.)

## 7:28-20.11 Radiation area and personnel monitoring requirements

(a)-(d) (No change.)

(e) If the PASO has identified removable contamination as a primary or secondary product of a particular accelerator as required pursuant to (a) above, then wipe tests shall be performed by the PASO or other qualified individual under the supervision of the PASO upon initial use of the particle accelerator and, thereafter, at least every six months to determine the degree of removable contamination in the target area and other pertinent areas to ensure compliance with N.J.A.C. 7:28-6. Where wipe test results indicate noncompliance with N.J.A.C. 7:28-6, use of the particle accelerator shall be immediately discontinued and remedial measures to bring the particle accelerator into compliance with N.J.A.C. 7:28-6 shall be taken. Use of the particle accelerator is prohibited until such time as new wipe tests show that compliance with N.J.A.C. 7:28-6 has been achieved. The results of the wipe tests shall be maintained for five years at the particle accelerator facility. Wipe test results shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(f) Surveys shall be made by the PASO or other qualified individual under the supervision of the PASO upon initial use of the particle accelerator and, thereafter, not less than once annually, to determine the levels of radiation resulting from activation of the target and other

pertinent areas to determine compliance with N.J.A.C. 7:28-6. Where test results indicate noncompliance with N.J.A.C. 7:28-6, use of the particle accelerator shall be immediately discontinued and remedial measures to bring the particle accelerator into compliance with N.J.A.C. 7:28-6 shall be taken. Use of the particle accelerator is prohibited until such time as test results show that compliance with N.J.A.C. 7:28-6 has been achieved. The results of the surveys shall be maintained for five years at the particle accelerator facility. Surveys shall be produced for review by the Department during an inspection and shall be submitted to the Department upon request.

(g)-(k) (No change.)

## 7:28-20.12 Ventilation systems

The registrant of a particle accelerator shall ensure that the maximum permissible average concentration of radioactive materials in air and water and the concentration of radioactive materials in effluents from the controlled areas shall meet the requirements of N.J.A.C. 7:28-6.

## SUBCHAPTER 22. QUALITY ASSURANCE PROGRAMS FOR MEDICAL DIAGNOSTIC X-RAY INSTALLATIONS

## 7:28-22.2 Definitions

The words and terms listed below, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Initially” means within 60 days of the date the x-ray machine is acquired.

...

## 7:28-22.3 General provisions

(a) No person shall perform or permit the performance of a diagnostic x-ray procedure in the healing arts using radiographic, fluoroscopic, x-ray bone densitometry, or computed tomography (CT) equipment unless the registrant has developed and continues to implement a quality assurance program that satisfies the requirements of this subchapter.

(b)-(d) (No change.)

(e) The compliance guidance documents listed in (d) above are available from the Department, and may be obtained by contacting the Department at the Bureau of X-ray Compliance, Mail Code 25-01, PO Box 420, Trenton, NJ 08625-0420 and can be obtained from the Bureau's web page at [www.xray.nj.gov](http://www.xray.nj.gov).

(f)-(o) (No change.)

## 7:28-22.4 Quality assurance program manual

(a) The registrant of any diagnostic medical x-ray equipment used in the healing arts shall develop and continuously implement a quality assurance program that includes a quality assurance program manual that contains the following elements:

1.-6. (No change.)

7. A provision describing how the registrant and the qualified medical physicist will review the QA program annually (not to exceed 14 months).

(b) The Department has prepared a Compliance Guidance for a Medical Diagnostic X-ray Quality Assurance Program Manual, referenced at N.J.A.C. 7:28-22.3(d)1, which may be used by the registrants in developing and implementing the quality assurance program required by this subchapter. The compliance guidance document listed in N.J.A.C. 7:28-22.3(d)1 is available from the Department, and may be obtained by contacting the Department at the Bureau of X-ray Compliance, Mail Code 25-01, PO Box 420, Trenton, NJ 08625-0420 and can be obtained from the Bureau's web page at [www.xray.nj.gov](http://www.xray.nj.gov).

## 7:28-22.5 Quality assurance program for medical diagnostic radiographic equipment

(a) (No change.)

(b) The Department has prepared compliance guidance documents, listed in N.J.A.C. 7:28-22.3(d)1 and 2, which may be used by the registrants in developing and implementing the quality assurance programs required by this subchapter. The compliance guidance documents are available from the Department, and may be obtained by

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contacting the Department at the Bureau of X-ray Compliance, Mail Code 25-01, PO Box 420, Trenton, NJ 08625-0420 and can be obtained from the Bureau's web page at [www.xray.nj.gov](http://www.xray.nj.gov).

(c)-(i) (No change.)

(j) The registrant shall ensure that:

1. All results of QC tests performed for items 2, 3, 5, 6, and 8 through 14 in Table 1, Radiographic Quality Control Requirements, are recorded on forms available from the Department at [www.xray.nj.gov](http://www.xray.nj.gov), or a comparable form containing the same information, and maintained for at least one year;

2. All images (film or digital) produced and relied upon in the performance of QC tests for items 2 and 3 in Table 1, Radiographic Quality Control Requirements, are maintained for at least 30 days; and

3. All images (film or digital) produced and relied upon in the performance of QC tests for items 8, 11, 12, and 13 in Table 1, Radiographic Quality Control Requirements, are maintained for at least one year.

(k)-(l) (No change.)

7:28-22.6 Quality assurance program for medical diagnostic fluoroscopic equipment

(a) (No change.)

(b) The Department has prepared compliance guidance documents, listed in N.J.A.C. 7:28-22.3(d)1 and 3, which may be used by the registrants in developing and implementing the quality assurance programs required by this subchapter. The compliance guidance documents are available from the Department, and may be obtained by contacting the Department at the Bureau of X-ray Compliance, Mail Code 25-01, PO Box 420, Trenton, NJ 08625-0420 and can be obtained from the Bureau's web page at [www.xray.nj.gov](http://www.xray.nj.gov).

(c)-(h) (No change.)

(i) The registrant shall ensure that:

1. All results of QC tests performed for items 2 through 6 in Table 2, Fluoroscopic Quality Control Requirements, are recorded on forms available from the Department at [www.xray.nj.gov](http://www.xray.nj.gov), or a comparable form containing the same information, and maintained for at least one year; \*and\*

2. All images (film or digital) produced and relied upon in the performance of QC tests for items 2, 3, and 5 are maintained for at least 30 days\*[, and]\*\*.\*

\*[3. All images (film or digital) produced and relied upon in the performance of QC tests for item 4 are maintained for at least one year.]\*

(j)-(k) (No change.)

7:28-22.7 Quality assurance program for diagnostic computed tomography equipment

(a) (No change.)

(b) The Department has prepared compliance guidance documents, listed in N.J.A.C. 7:28-22.3(c)1 and 4, which may be used by the registrants in developing and implementing the quality assurance programs required by this subchapter. The compliance guidance documents are available from the Department, and may be obtained by contacting the Department at the Bureau of X-ray Compliance, Mail Code 25-01, PO Box 420, Trenton, NJ 08625-0420 and can be obtained from the Bureau's web page at [www.xray.nj.gov](http://www.xray.nj.gov).

(c)-(i) (No change.)

(j) The registrant shall ensure that:

1. All results of QC tests performed for items 2 through 11 in Table 3, Computed Tomography Quality Control Requirements, are recorded on forms available from the Department at [www.xray.nj.gov](http://www.xray.nj.gov), or a comparable form containing the same information, and maintained for at least one year;

2. All images (film or digital) produced and relied upon in the performance of QC tests for items 2, 3, 4, and 5 are maintained for at least 30 days; and

3. All images (film or digital) produced and relied upon in the performance of QC tests for items 6, 7, and 8 are maintained for at least one year.

(k)-(l) (No change.)

## ENVIRONMENTAL PROTECTION

7:28-22.8 Medical Physicist's Radiographic QC Survey

(a)-(e) (No change.)

(f) For the Radiographic QC Survey:

1.-3. (No change.)

4. For item 11 in Table 4, Medical Physicist's Radiographic QC Survey, above, the medical physicist shall review the completed QC test records that have been performed by the registrant for the previous year to ensure the tests were performed properly and corrective actions taken.

5. For item 12 in Table 4, Medical Physicist's Radiographic QC Survey, above, the medical physicist shall prepare a report that reviews the overall quality assurance program being carried out by the registrant and contains:

i. Raw data and results of the medical physicist's equipment tests performed in accordance with items 1 through 10 in Table 4, Medical Physicist's Radiographic QC Survey, above and recommendations based on these tests; and

ii. Results and recommendations based on the medical physicist's review performed in accordance with item 11 in Table 4, Medical Physicist's Radiographic QC Survey, above.

7:28-22.9 Medical Physicist's Fluoroscopic QC Survey

(a) (No change.)

(b) A qualified medical physicist for the supervision of quality assurance programs for diagnostic x-ray imaging may delegate the performance testing required for the Medical Physicist's Fluoroscopic QC Survey in (a) above to a qualified medical physicist assistant in fluoroscopy who holds a valid certificate issued by the Department except as provided below:

1. The qualified medical physicist for the supervision of quality assurance programs for diagnostic x-ray imaging may not delegate items 11 and 12 in Table 5, Medical Physicist's Fluoroscopic QC Survey, above; and

2. The qualified medical physicist for the supervision of quality assurance program for diagnostic x-ray imaging may not delegate any items in Table 5, Medical Physicist's Fluoroscopic QC Survey, above if the fluoroscopic equipment is located in a dedicated interventional special procedure suite.

(c)-(e) (No change.)

(f) For the Fluoroscopic QC Survey:

1.-2. (No change.)

3. For item 12 in Table 5, Medical Physicist's Fluoroscopic QC Survey, above, the medical physicist shall prepare a report that reviews the overall quality assurance program being carried out by the registrant and contains:

i. Raw data and results of the medical physicist's equipment tests performed in accordance with items 1 through 10 in Table 5, Medical Physicist's Fluoroscopic QC Survey, above and recommendations based on these tests; and

ii. Results and recommendations based on the medical physicist's review performed in accordance with item 11 in Table 5, Medical Physicist's Fluoroscopic QC Survey, above.

7:28-22.10 Medical Physicist's Computed Tomography QC Survey

(a)-(d) (No change.)

(e) For the Computed Tomographic QC Survey:

1.-4. (No change.)

5. For item 14 in Table 6, Medical Physicist's Computed Tomography QC Survey, above, the medical physicist shall prepare a report that reviews the overall quality assurance program being carried out by the registrant and contains:

i. Raw data and results of the medical physicist's equipment tests performed in accordance with items 1 through 12 in Table 6, Medical Physicist's Computed Tomography QC Survey, above and recommendations based on these tests; and

ii. Results and recommendations based on the medical physicist's review performed in accordance with item 13 in Table 6, Medical Physicist's Computed Tomography QC Survey, above.

7:28-22.12 Qualifications of medical physicists and medical physicist assistants

(a)-(c) (No change.)

(d) Only a person who holds a valid certificate issued by the Department in accordance with N.J.A.C. 7:28-22.13(a), meets one of the criteria contained in (d)1 through 5 below, and also meets the criterion in (d)6 below may perform the duties of a “qualified medical physicist assistant in fluoroscopy”:

1.-5. (No change.)

6. In addition to the criteria in (d)1 through 5 above, the individual shall document to the satisfaction of the Department, that the individual has received, at a minimum, training and instruction on performing QC tests and has performed quality control tests 1 through 10 of Table 5, Medical Physicist’s Fluoroscopic QC Survey, in N.J.A.C. 7:28-22.9 on at least five fluoroscopic units while under the immediate supervision of a qualified medical physicist for the supervision of quality assurance programs for diagnostic x-ray imaging.

7:28-22.13 Certification and decertification of qualified medical physicists and qualified medical physicist assistants

(a)-(g) (No change.)

(h) The fees accompanying the application or biennial renewal application shall be in the form of a check or money order made payable to the Treasurer, State of New Jersey. Fees are non-refundable. Applications for certification are available from the Bureau of X-ray Compliance, Mail Code 25-01, PO Box 420, Trenton, NJ 08625-0420.

(i)-(j) (No change.)

#### SUBCHAPTER 24. NUCLEAR MEDICINE TECHNOLOGY

7:28-24.8 Fees

(a) (No change.)

(b) All fees shall be in the form of a check or money order made payable to the Treasurer, State of New Jersey.

1. (No change.)

2. All examination and initial license applications and associated fees shall be mailed to:

State of New Jersey  
Department of Environmental Protection  
Bureau of X-ray Compliance  
Mail Code 25-01  
PO Box 420  
Trenton, New Jersey 08625-0420

3. (No change.)

#### SUBCHAPTER 41. MERCURY VAPOR LAMPS

7:28-41.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

7:28-41.3 General requirements for indoor installations

(a) (No change.)

7:28-41.4 General requirements for outdoor installations

(a)-(b) (No change.)

#### SUBCHAPTER 48. FEES FOR THE REGISTRATION OF NONIONIZING RADIATION PRODUCING SOURCES

7:28-48.7 Initial registration fee and annual renewal fee for nonionizing radiation producing sources

(a)-(d) (No change.)

(e) The registration of an owner who fails to submit an annual renewal fee within 60 calendar days after the owner's receipt of the bill shall be considered expired.

1. (No change.)

2. Requests for hearings shall be sent to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, \*Mail Code 401-04L,\* P.O. Box 402, \*401 East State Street, 7th Floor,\* Trenton, NJ 08625-0402.

(f)-(g) (No change.)

#### SUBCHAPTER 50. NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTGATIONS

7:28-50.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 19 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 19.5, Communications;

2. 10 CFR 19.8, Information collection requirements: OMB approval;

3. 10 CFR 19.11(b), Posting of notices to workers; \*and\*

\*[4. 10 CFR 19.14(a), Presence of representatives of licensees and regulated entities, and workers during inspections; and]\*

\*[5.]\* \*4.\* 10 CFR 19.30, Violations.

(c) The following provisions of 10 CFR Part 19 are incorporated by reference with the specified changes:

1. “Atomic Energy Act of 1954” as used in the provisions of Part 19 of the Code of Federal Regulations that are incorporated by reference, shall mean the Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq.;

2. “Nuclear Regulatory Commission,” “NRC,” and “U.S. Nuclear Regulatory Commission,” as used in the provisions of Part 19 of the Code of Federal Regulations that are incorporated by reference, shall mean the New Jersey Department of Environmental Protection, except when specifically noted in this subchapter;

3. 10 CFR 19.2, Scope, delete references to 10 CFR Parts 50, 52, 54, 60, 63, 72, and 76;

4. 10 CFR 19.2(a)(1), replace “parts 30 through 36, 39, 40, 60, 61, 63, 70 or 72 of this chapter” with “N.J.A.C. 7:28-51 through 60, and 63,” and delete “ including persons licensed to operate a production or utilization facility under parts 50 or 52 of this chapter, persons licensed to possess power reactor spent fuel in an independent spent fuel storage installation (ISFSI) under part 72 of this chapter, and in accordance with 10 CFR 76.60 to persons required to obtain a certificate of compliance or an approved compliance plan under part 76 of this chapter”;

5. 10 CFR 19.2(b), delete “The regulations in this part do not apply to subpoenas issued under 10 CFR 2.702”;

6. 10 CFR 19.3, Definitions, “Act” shall mean the Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq.;

7. 10 CFR 19.3, Definitions, “Commission” shall mean the New Jersey Department of Environmental Protection;

8. 10 CFR 19.3, in the definition of “License,” replace “in parts 30 through 36, 39, 40, 60, 61, 63, 70, or 72” with “in N.J.A.C. 7:28-51 through 60 and 63”;

9. 10 CFR 19.3, in the definition of “Regulated activities,” delete “or any title of the Energy Reorganization Act of 1972, as amended”;

10. 10 CFR 19.3, in the definition of “Regulated entities,” delete “, including (but not limited to) an applicant for or holder of a standard design approval under subpart E of part 52 of this chapter or a standard design certification under subpart B of part 52 of this chapter.”;

11. 10 CFR 19.4, replace “Except as specifically authorized by the Commission in writing, no” with “No,” and replace “by the General Counsel” with “signed and approved by the Commissioner of the Department,”;

12. 10 CFR 19.11(a), Posting of notices to workers, delete “(except for an early site permit under subpart A of part 52 of this chapter, or a holder of a manufacturing license under subpart F or part 52 of this chapter)”;

13. (No change in text.)

14. 10 CFR 19.11(a)(4), replace “pursuant to subpart B of part 2 of this chapter” with “by the Department”;

15. 10 CFR 19.11(d), delete “or (b)(1) or (2)”;

16. 10 CFR 19.11(e)(1), replace “licensee,” with “licensee or,” delete “each applicant for or holder of a standard design approval under subpart E of part 52 of this chapter, each applicant for an early site permit under subpart A of part 52 of this chapter, and each applicant for a standard design certification under subpart B of part 52 of this chapter,” replace “NRC Form 3” with “Form RPP-14,” and replace “August 1997” with “November 2010”;

17. 10 CFR 19.11(e)(2), replace “by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 or this chapter, by calling (301) 415-7232, via e-mail to forms@nrc.gov, or by visiting the NRC’s website at <http://www.nrc.gov> and selecting forms from the index found on the home page” with “contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5”;

18. 10 CFR 19.11(g), delete “or (b)(3)”;

19. 10 CFR 19.13(a), replace “10 CFR part 19” with “N.J.A.C. 7:28-50”;

20. 10 CFR 19.14(a), Presence of representatives of licensees and regulated entities, and workers during inspections, replace “licensee,” with “licensee or,” and delete “each applicant for or holder of a standard design approval under subpart E of part 52 of this chapter, each applicant for an early site permit under subpart A of part 52 of this chapter, and each applicant for a standard design certification under subpart B of part 52 of this chapter”;

21. 10 CFR 19.16(a), replace “Administrator of the appropriate Commission Regional Office” with “Radioactive Materials Program”;

22. 10 CFR 19.16(a) and (b), replace all references to “Regional Office Administrator” with “Radioactive Materials Program”;

23. 10 CFR 19.17(a), replace all references to “Executive Director for Operations” with “Manager, Bureau of Environmental Radiation of the Department,” and replace “Washington, DC 20555-0001; by hand delivery to the NRC’s offices at 11555 Rockville Pike, Rockville, Maryland” with “at the address or physical location specified in N.J.A.C. 7:28-1.5(a),” and delete “Detailed guidance on making electronic submissions can be obtained by visiting the NRC’s Web site at <http://www.nrc.gov/site-help/e-submittals.html>; by e-mail to SHD.Resource@nrc.gov; or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.”;

24. 10 CFR 19.17(a) and (b), replace all references to “Administrator of the appropriate Regional Office” with “Supervisor, Radioactive Materials Program”;

25. 10 CFR 19.18(b), replace “Office of the General Counsel” with “Office of the Attorney General of New Jersey,” and replace all references to “agency” with “State”;

26. 10 CFR 19.20, delete “a holder of a certificate of compliance issued under part 76 of this chapter,” and replace “parts 30, 40, 50, 52, 54, 60, 61, 63, 70, 72, 76, or 150 of this chapter” with “N.J.A.C. 7:28-51, 58, 59, 60 or 62”;

27. 10 CFR 19.31, replace “Commission” with “Department, with approval of the Commission on Radiation Protection,” and replace “by law, will not result in undue hazard to life and property” with “in accordance with the provisions of N.J.A.C. 7:28-2.8”;

28. 10 CFR 19.32, delete “; or under any title of the Energy Reorganization Act of 1974, as amended” and add “Allegations of discrimination are to be reported to the Division on Civil Rights, Department of Law and Public Safety, 140 East Front Street, P.O. Box 089, Trenton, New Jersey, 08625-089.”; and

29. 10 CFR 19.40, delete all of 10 CFR 19.40(a) and (b) and replace with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act.”

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, “Notice to Employees” shall mean the Department’s Form RPP-14, “Notice to Employees, Standards for Protection Against Radiation,” available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

#### SUBCHAPTER 51. RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

7:28-51.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 30 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 30.3(b) through (d), Activities requiring license;

2. 10 CFR 30.4, Definitions, the following definitions are not incorporated by reference: “Act,” “alert,” **“commencement of construction – paragraph 2,” “construction, paragraph 9(ii),”** “Department and Department of Energy,” “production facility,” “site area emergency,” and “utilization facility”;

3. (No change in text.)

4. 10 CFR 30.7(e)(3), Employee Protection;

5. (No change in text.)

6. 10 CFR 30.11(b) and (c), Specific exemptions;

7. (No change in text.)

8. 10 CFR 30.32(f), Application for specific licenses;

9. 10 CFR 30.33(a)(5), General requirements for issuance of specific license;

10. (No change in text.)

11. 10 CFR 30.41(b)(6), Transfer of byproduct material;

12. 10 CFR 30.50(c)(3), Reporting Requirements;

13. 10 CFR 30.55, Tritium reports; and

14. 10 CFR 30.63, Violations.

(c) The following provisions of 10 CFR Part 30 are incorporated by reference with the specified changes:

1. 10 CFR 30.1, Scope, replace “in the United States governing domestic licensing of byproduct material under the Atomic Energy Act of 1954, as amended (68 Stat. 919), and under title II of the Energy Reorganization Act of 1974 (88 Stat. 1242), and exemptions from the domestic licensing requirements permitted by Section 81 of the Act” with “in the State of New Jersey where the New Jersey Department of Environmental Protection maintains jurisdiction governing domestic licensing of byproduct material under the Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq.”;

2. 10 CFR 30.3(a), replace “part 150 of this chapter” with “N.J.A.C. 7:28-62”;

\*[3.] 10 CFR 30.3(b)(1), replace “parts 19, 20, 21 and 71 of this chapter” with “N.J.A.C. 7:28-6, 50, and 61” and replace “10 CFR parts 33, 34, 36 or 39” with “N.J.A.C. 7:28-54, 56, 57, or 63”;

4. 10 CFR 30.3(b)(1), (2) and (3), delete “or Federally recognized Indian Tribe”;

5. 10 CFR 30.3(b)(3), delete “or Indian Tribe”;

6. 10 CFR 30.3(c)(1), replace “parts 19, 20, 21 and 71 of this chapter” with “N.J.A.C. 7:28-6, 50, and 61” and replace “10 CFR parts 33, 34, 36, or 39” with “N.J.A.C. 7:28-54, 56, 57, or 63”;

\*[7.]\* \*3.\* (No change in text.)

\*[8.]\* \*4.\* “Nuclear Regulatory Commission,” “NRC,” and “U.S. Nuclear Regulatory Commission,” as used in the provisions of Part 30 of the Code of Federal Regulations that are incorporated by reference, shall mean the New Jersey Department of Environmental Protection, except when specifically noted in this subchapter; and at:

i. 10 CFR 30.4, Definitions, “Agreement State,”

\*[9.]\* \*5.\* 10 CFR 30.5, replace “Except as specifically authorized by the Commission in writing, no” with “No,” and replace “parts 31 through 36 and 39” with “N.J.A.C. 7:28-52 through 57 and 63,” and replace “by the General Counsel” with “signed and approved by the Commissioner of the Department”;

\*[10.]\* \*6.\* 10 CFR 30.7(a), delete “The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.”;

\*[11.]\* \*7.\* 10 CFR 30.7(a)(3), replace “Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended” with “Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq.”;

\*[12.]\* \*8.\* 10 CFR 30.7(e)(1), replace “part 19” with “N.J.A.C. 7:28-50”;

\*[13.]\* \*9.\* 10 CFR 30.9(b), replace all references to “Administrator of the appropriate Regional Office” with “Supervisor, Radioactive Materials Program”;

- \*[14.]\* \*10.\* (No change in text.)
- \*[15.]\* \*11.\* 10 CFR 30.11(a), replace "Commission" with "Department, with approval of the Commission on Radiation Protection," and replace "parts 31 through 36 and 39 of this chapter as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest" with "N.J.A.C. 7:28-52 through 57 and 63 as it determines are authorized in accordance with the provisions of N.J.A.C. 7:28-2.8";
- \*[16.]\* \*12.\* 10 CFR 30.11(d), replace all references to "part 61 of this chapter" with "N.J.A.C. 7:28-59";
- \*[17.]\* \*13.\* 10 CFR 30.12, "Department" shall mean Department of Energy, "Commission" shall mean U.S. Nuclear Regulatory Commission, and "Act" shall mean the Atomic Energy Act of 1974;
- \*[18.]\* \*14.\* 10 CFR 30.13, replace "parts 31 through 36 and 39 of this chapter" with "N.J.A.C. 7:28-52 through 57 and 63" and delete "section 81 of";
- \*[19.]\* \*15.\* 10 CFR 30.14(a), delete "section 81 of" and replace "parts 31 through 36 and 39 of this chapter" with "N.J.A.C. 7:28-52 through 57 and 63";
- \*[20.]\* \*16.\* 10 CFR 30.14(c), delete "section 81 of," replace "parts 31 through 36 and 39 of this chapter" with "N.J.A.C. 7:28-52 through 57 and 63," and add "the Department or" after "holding a specific license issued by";
- \*[21.]\* \*17.\* (No change in text.)
- \*[22.]\* \*18.\* 10 CFR 30.14(d), add "or the U.S. NRC" after "Agreement State" and replace "§ 32.11 of this chapter" with "N.J.A.C. 7:28-53";
- \*[23.]\* \*19.\* 10 CFR 30.15(a), delete "section 81 of" and replace "parts 20 and 30 through 36 and 39" with "N.J.A.C. 7:28-6 and 51 through 57";
- \*20. 10 CFR 30.15(a)(2)(iii), "Commission" shall mean the U.S. Nuclear Regulatory Commission;\***
- \*[24.]\* \*21.\* 10 CFR 30.18(a), delete "section 81 of" and replace "parts 30 through 34, 36, and 39 of this chapter" with "N.J.A.C. 7:28-51 through 54, 56, 57 and 63";
- \*[25.]\* \*22.\* 10 CFR 30.18(b), replace "§ 31.4 of this chapter or similar general license of a state" with "N.J.A.C. 7:28-52 or similar general license of an Agreement State or the U.S. NRC," delete "section 81 of," and replace "parts 30 through 34, 36 and 39" with "N.J.A.C. 7:28-51 through 54, 56, 57 and 63";
- \*[26.]\* \*23.\* 10 CFR 30.18(d), add "or the U.S. NRC" after both occurrences of "Agreement State";
- \*[27.]\* \*24.\* 10 CFR 30.19(a), delete "section 81 of" and replace "parts 20 and 30 through 36 and 39 of this chapter" with "N.J.A.C. 7:28-6, 51 through 57 and 63";
- \*[28.]\* \*25.\* 10 CFR 30.19(b), add "or the U.S. NRC" after "Agreement State" **\*and delete both instances of "of this chapter"\***;
- \*[29.]\* \*26.\* 10 CFR 30.20(a), delete "section 81 of," replace "19, 20 and 30 through 36, and 39 of this chapter" with "N.J.A.C. 7:28-6, 50 through 57 and 63;"
- \*[30.]\* \*27.\* 10 CFR 30.20(b), add "or the U.S. NRC" after "Agreement State" **\*and delete both instances of "of this chapter"\***;
- \*[31.]\* \*28.\* 10 CFR 30.21(b), replace "part 35 of this chapter" with "N.J.A.C. 7:28-55";
- \*29. 10 CFR 30.22(a), delete "section 81 of" and replace "19, 20, 21, 30 through 36, and 39 of this chapter" with N.J.A.C. 7:28-6, 20, 51 through 57 and 63"; and delete "of this chapter" after "§32.30";**
- 30. 10 CFR 30.22(b), delete both instances of "of this chapter";\***
- \*[32.]\* \*31.\* 10 CFR 30.31(a), replace "parts 32 through 36, and 39" with "N.J.A.C. 7:28-53 through 57 and 63";
- \*[33.]\* \*32.\* 10 CFR 30.32(a), replace the first sentence with "Application for specific licenses and renewals from the State shall be filed with the Department on forms available from the Department";
- \*[34.]\* \*33.\* 10 CFR 30.32(d), replace "parts 32 through 35 of this chapter" with "N.J.A.C. 7:28-53 through 55 and 63";
- \*[35.]\* \*34.\* (No change in text.)
- \*35. 10 CFR 30.32(g), delete all seven instances of "of this chapter"\***;
36. 10 CFR 30.32(g)(1) **\*and (2)\***, "Commission" shall mean the U.S. Nuclear Regulatory Commission;
37. 10 CFR 30.32(h), replace "parts 32 through 35 of this chapter" with "N.J.A.C. 7:28-53 through 55 and 63";
38. 10 CFR 30.32(j), replace "part 35 of this chapter" with "N.J.A.C. 7:28-55" and add "or U.S. NRC" after "Agreement State";
39. 10 CFR 30.32(j)(1), add "or U.S. NRC" after "Agreement State";
40. 10 CFR 30.33(a)(4), replace "parts 32 through 36 and 39" with "N.J.A.C. 7:28-53 through 57 and 63";
41. 10 CFR 30.33(b), delete "(Form NRC 374, "Byproduct Material License");
42. 10 CFR 30.34(a), replace "parts 31 through 36 and 39 of this chapter" with "N.J.A.C. 7:28-52 through 57 and 63";
43. 10 CFR 30.34(b), replace "parts 31 through 36 and 39" with "N.J.A.C. 7:28-52 through 57 and 63";
44. 10 CFR 30.34(c), replace "parts 31 through 36 and 39" and "parts 31 through 36 and 39 of this chapter" with "N.J.A.C. 7:28-52 through 57 and 63";
45. 10 CFR 30.34(c), replace "part 71 of this chapter" with N.J.A.C. 7:28-61";
46. 10 CFR 30.34(f), replace "appropriate NRC Regional Office specified in § 30.6" with "Radioactive Materials Program";
47. 10 CFR 30.34(h)(1), replace "appropriate NRC Regional Administrator" with "Radioactive Materials Program";
- \*48. 10 CFR 30.35(c)(6), replace "10 CFR 20.1402" with "N.J.A.C. 7:28-12.1";**
- 49. 10 CFR 30.35(c)(1)(B), replace "10 CFR 20.1402" with "N.J.A.C. 7:28-12" and add "or restricted" after "unrestricted," and delete ", provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria";\***
- \*[48.]\* \*50.\* (No change in text.)
- \*[49.]\* \*51.\* (No change in text.)
- \*[50.]\* \*52.\* 10 CFR 30.36(j)(1), replace "NRC" with "NJRAD"; Recodify proposed 51.-53. as \*53.-55\*. (No change in text.)
- \*[54.]\* \*56.\* 10 CFR 30.37(a), replace the wording of (a) with "Application for renewal of a specific State license shall be filed with the Department on NJRAD Form-313 available from the Department.";
- \*[55.]\* \*57.\* 10 CFR 30.38, Change the title of the section from "Application for amendment of licenses" to "Amendment of licenses," and replace "Applications for amendment of a license shall be filed on Form NRC-313 in accordance with 30.32" with "Requests to amend a license shall be submitted in a letter form to the Department or on NJRAD Form-313";
- \*[56.]\* \*58.\* 10 CFR 30.39, replace "parts 32 through 36 and 39 of this chapter" with "N.J.A.C. 7:28-53 through 57 and 63";
- \*[57.]\* \*59.\* 10 CFR 30.41(b)(1), add "of Energy" after "the Department";
- \*[58.]\* \*60.\* 10 CFR 30.41(b)(2), "Act" shall mean the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto";
- \*[59.]\* \*61.\* 10 CFR 30.41(b)(5), add "or the U.S. NRC" after "an Agreement State";
- \*[60.]\* \*62.\* 10 CFR 30.41(c), add "or the U.S. NRC" after both occurrences of "Agreement State";
- \*[61.]\* \*63.\* 10 CFR 41(d)(4) and (5), add "or the U.S. NRC" after "the Commission";
- \*[62.]\* \*64.\* 10 CFR 30.50(c)(1) replace "NRC Operations Center" with "the Department at the appropriate phone number listed in N.J.A.C. 7:28-1.5.";
- \*[63.]\* \*65.\* 10 CFR 30.50(c)(2), replace "appropriate NRC Regional office listed in appendix D to part 20 of this Chapter" with "Radioactive Materials Program";
- \*[64.]\* \*66.\* 10 CFR 30.51(a), replace "parts 31 through 36 of this chapter" with "N.J.A.C. 7:28-52 through 56 and 63";
- \*[65.]\* \*67.\* 10 CFR 30.51(b) and (c)(1), replace all references to "parts 31 through 36 of this chapter" with "N.J.A.C. 7:28-52 through 56 and 63";
- \*[66.]\* \*68.\* 10 CFR 30.51(c)(2), replace all references to "parts 31 through 36 and 39 of this chapter" with "N.J.A.C. 7:28-52 through 57 and 63";

\*[67.]\* \*69.\* 10 CFR 30.51(d) and (f), replace all references to “appropriate NRC Regional Office” with “Radioactive Material Program”;

\*[68.]\* \*70.\* 10 CFR 30.53, replace “parts 31 through 36 and 39 of this chapter” with “N.J.A.C. 7:28-52 through 57 and 63”;

\*[69.]\* \*71.\* 10 CFR 30.61(a), replace “parts 31 through 35 of this chapter” with “N.J.A.C. 7:28-52 through 55 and 63”;

\*[70.]\* \*72.\* 10 CFR 30.61(b), delete “section 182 of”;

\*[71.]\* \*73.\* 10 CFR 30.64, replace all of 10 CFR 30.64 with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act”;

\*[72.]\* \*74.\* 10 CFR 30, Appendix A to Part 20 – Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning, II Financial Test (A)(1)(ii) and (A)(2)(ii), delete , “or, for a power reactor licensee, at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all reactor units or parts thereof (Tangible net worth shall be calculated to exclude the net book value of the nuclear unit(s))”;

\*[73.]\* \*75.\* 10 CFR 30, Appendix A to Part 20 – Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning, II Financial Test (A)(1)(iv) and (A)(2)(iv), delete, “or, for a power reactor licensee, at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all reactor units or parts therefore”; and

\*[74.]\* \*76.\* (No change in text.)

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, “Notice to Employees” shall mean the Department’s Form RPP-14, “Notice to Employees, Standards for Protection Against Radiation,” available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

## SUBCHAPTER 52. GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

### 7:28-52.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 31 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 31.4, Information collection requirements: OMB approval; and

2. 10 CFR 31.22, Violations.

(c) The following provisions of 10 CFR Part 31 are incorporated by reference with the specified changes:

1. (No change.)

2. 10 CFR 31.1, replace “10 CFR Part 30” with “N.J.A.C. 7:28-51”;

3. 10 CFR 31.2, replace “Parts 19, 20, and 21 of this chapter” with “N.J.A.C. 7:28-6 and 50”;

4. 10 CFR 31.5(b)(1)(ii), add “or by the U.S. Nuclear Regulatory Commission” after “Agreement State”;

5. 10 CFR 31.5(c)(3)(ii), replace “parts 30 and 32 of this chapter” with “N.J.A.C. 7:28-51 and 53” and add “or from the U.S. Nuclear Regulatory Commission” after “Agreement State”;

6. 10 CFR 31.5(c)(5), replace “parts 30 and 32 of this chapter” with “N.J.A.C. 7:28-51 and 53” and add “or by the U.S. Nuclear Regulatory Commission” after “Agreement State”;

7. (No change in text.)

8. 10 CFR 31.5(c)(8)(i), replace “parts 30 and 32 of this chapter, or part 30 of this chapter” with “N.J.A.C. 7:28-51 and 53, or N.J.A.C. 7:28-51” and add “or of the U.S. Nuclear Regulatory Commission” after “Agreement State”;

9. 10 CFR 31.5(c)(10), replace “parts 19, 20, and 21, of this chapter,” with “and N.J.A.C. 7:28-6 and 50”;

10. 10 CFR 31.5(c)(11), replace “Director, Office of Federal and State Materials and Environmental Management Programs” with “Department” and replace “§ 30.6(a) of this chapter” with “N.J.A.C. 7:28-1.5”;

11. 10 CFR 31.5(c)(13)(ii), after “fee required by” replace “Sec. 170.31 of this chapter” with “N.J.A.C. 7:28-64”;

12. 10 CFR 31.5(c)(13)(iv), add “or by the U.S. Nuclear Regulatory Commission” after “Agreement State”;

13. 10 CFR 31.5(c)(14), replace “Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: GLTS, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001” with “Radioactive Materials Program”;

14. 10 CFR 31.6, add “or by the U.S. Nuclear Regulatory Commission” after “by an Agreement State” and add “or within NRC jurisdiction” after “within such Agreement State”;

15. 10 CFR 31.6, replace “any non-Agreement State” with “the State of New Jersey, where the Department maintains jurisdiction”;

16. 10 CFR 31.6(b), add “or by the U.S. Nuclear Regulatory Commission” after “Agreement State”;

17. 10 CFR 31.6(c), add “or of the U.S. Nuclear Regulatory Commission” after “Agreement State”;

18. 10 CFR 31.7(a), add “or by the U.S. Nuclear Regulatory Commission” after all occurrences of “by an Agreement State”;

19. 10 CFR 31.7(b), replace “parts 19, 20, and 21, of this chapter” with “N.J.A.C. 7:28-6 and 50”;

20. 10 CFR 31.8(a)(1), replace “a non-Agreement State” with “the State of New Jersey, where the Department maintains jurisdiction”;

21. 10 CFR 31.8(b), add “or by the U.S. Nuclear Regulatory Commission” after both occurrences of “Agreement State”;

22. 10 CFR 31.8(c), replace “parts 19, 20, and 21, of this chapter” with “N.J.A.C. 7:28-6 and 50”;

23. 10 CFR 31.10(a), add “or by the U.S. Nuclear Regulatory Commission” after both occurrences of “Agreement State”;

24. 10 CFR 31.10(b)(1), replace “part 30 or 32” with “N.J.A.C. 7:28-51 or 53” and add “or from the U.S. Nuclear Regulatory Commission” after “Agreement State”;

25. 10 CFR 31.10(b)(3), replace “parts 19, 20, and 21, of this chapter” with “N.J.A.C. 7:28-6 and 50,”;

26. 10 CFR 31.11(b)(1), replace with “NRC Form 483” with “NJRAD Form 483,” replace “Director, Office of Federal and State Materials and Environmental Management Programs” with “Radioactive Materials Program,” and replace “30.6(a) of this chapter” with “N.J.A.C. 7:28-1.5”;

27. 10 CFR 31.11(b)(2), replace “part 35 of this chapter” with “N.J.A.C. 7:28-55”;

28. 10 CFR 31.11(d)(1), add “or by the U.S. Nuclear Regulatory Commission” after both occurrences of “Agreement State”;

29. (No change in text.)

30. 10 CFR 31.11(f), replace “parts 19, 20, and 21, of this chapter” with “and N.J.A.C. 7:28-6 and 50”;

31. 10 CFR 31.12(b), replace “10 CFR parts 19, 20, and 21” with “N.J.A.C. 7:28-6 and 50”;

32. 10 CFR 31.12(c)(3), replace “part 110 of this chapter” with “10 CFR part 110”;

33. 10 CFR 31.12(c)(4), replace “part 30 of this chapter” with “N.J.A.C. 7:28-51,” and add “or of the U.S. Nuclear Regulatory Commission” after “Agreement State”;

34. 10 CFR 31.12(c)(5), replace “Director of the Office of Federal and State Materials and Environmental Management Programs” with “Radioactive Materials Program,” and replace “30.6(a) of this chapter” with “N.J.A.C. 7:28-1.5”; and

35. 10 CFR 31.23, replace all of 10 CFR 31.23 with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act.”

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, “Notice to Employees,” shall mean the Department’s Form RPP-14, “Notice to Employees, Standards for Protection Against Radiation,” available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

SUBCHAPTER 53. SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

7:28-53.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 32 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 32.1(c)(1) and (2), Purpose and scope;

Recodify existing 1.-13. as 2.-14. (No change in text.)

15. 10 CFR 32.25, Conditions of licenses issued under §32.22: Quality control, labeling, and reports of transfer;

Recodify existing 15.-17. as 16.-18. (No change in text.)

19. 10 CFR 32.29, Conditions of licenses issued under §32.26: Quality control, labeling, and reports of transfer;

**\*20. 10 CFR 32.30, Certain industrial devices containing byproduct material: Requirements for license to manufacture, process, produce, or initially transfer;**

**21. 10 CFR 32.31, Certain industrial devices containing byproduct material: Safety criteria;**

**22. 10 CFR 32.32, Conditions of licenses issued under §32.20: Quality control, labeling, and reports of transfer;\***

\*[20.]\* \*23.\* 10 CFR 32.210, Registration of product information; \*[and]\*

**\*24. 10 CFR 32.211, Inactivation of certificates of registration of sealed sources and devices; and\***

\*[21.]\* \*25.\* 10 CFR 32.301, Violations.

(c) The following provisions of 10 CFR Part 32 are incorporated by reference with the specified changes:

1. "Commission," "Nuclear Regulatory Commission," "NRC," and "U.S. Nuclear Regulatory Commission," as used in the provisions of Part 32 of the Code of Federal Regulations that are incorporated by reference, shall mean the Department, except when specifically noted in this subchapter;

2. 10 CFR 32.1(a)(1), replace "part 30 of this chapter" with "N.J.A.C. 7:28-51";

3. 10 CFR 32.1(a)(2), replace "part 31 or 35 of this chapter" with "N.J.A.C. 7:28-52 or 55" and replace "part 30 of this chapter" with "N.J.A.C. 7:28-51";

4. 10 CFR 32.1(a)(2), add "or of the U.S. Nuclear Regulatory Commission" after "Agreement State";

5. 10 CFR 32.1(b), replace "part 30 of this chapter" with "N.J.A.C. 7:28-51";

\*[6. 10 CFR 32.1(c)(2), replace "part 31 of this chapter" with "N.J.A.C. 7:28-52;]\*

\*[7.]\* \*6.\* (No change in text.)

\*[8.]\* \*7.\* 10 CFR 32.13, replace "§32.11" with "10 CFR 32.11" and add "or of the U.S. Nuclear Regulatory Commission" after "Agreement State";

\*[9.]\* \*8.\* 10 CFR 32.51(a), add "or of the U.S. Nuclear Regulatory Commission" after "Agreement State";

**\*9. 10 CFR 32.15(b) delete "of this chapter" and add "the U.S. NRC or" before "an Agreement State";\***

10. 10 CFR 32.51(a)(3)(iii), "U.S. NRC" shall mean U.S. Nuclear Regulatory Commission;

11. 10 CFR 32.51(c), add "or of the U.S. Nuclear Regulatory Commission" after "Agreement State";

12. 10 CFR 32.51a(b) add, "or of the U.S. Nuclear Regulatory Commission" after "an Agreement State";

13. 10 CFR 32.51a(b)(1), add "or U.S. Nuclear Regulatory Commission's" after "Agreement State's" and add "or the U.S. Nuclear Regulatory Commission" after "Agreement State";

14. 10 CFR 32.51a(b)(4), add "or at the U.S. Nuclear Regulatory Commission" after "Agreement State regulatory agency";

15. 10 CFR 32.51a(e), add "or the U.S. Nuclear Regulatory Commission" after "Agreement State";

16. 10 CFR 32.52(a), replace "Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: GLTS" with "Radioactive Material Program" and replace "§30.6(a) of this chapter" with "N.J.A.C. 7:28-1.5";

17. 10 CFR 32.52(b), add "U.S. Nuclear Regulatory Commission's" after "Agreement State's" in both locations and add "U.S. Nuclear Regulatory Commission" after "Agreement State agency";

18. 10 CFR 32.54(a), "U.S. NRC" and "NRC" shall mean U.S. Nuclear Regulatory Commission;

**\*19. 10 CFR 32.55, add "or U.S. NRC" after "Agreement State";**

**20. 10 CFR 32.56(b), delete "of this chapter," add "or the U.S. NRC" after "Agreement State agency," add "or the U.S. NRC" before "during the reporting period," add "or the U.S. NRC" before "upon request," and delete "of the agency";\***

\*[19.]\* \*21.\* 10 CFR 32.58, "United States Nuclear Regulatory Commission" and "Commission" shall mean U.S. Nuclear Regulatory Commission;

\*[20.]\* \*22.\* 10 CFR 32.59, add "or of the U.S. Nuclear Regulatory Commission" after "Agreement State";

\*[21.]\* \*23.\* 10 CFR 32.56, replace "Director, Office of Federal and State Materials and Environmental Management Programs" with "Radioactive Material Program" and replace "§ 30.6(a) of this chapter" with "N.J.A.C. 7:28-1.5";

\*[22.]\* \*24.\* 10 CFR 32.58, "U.S. Nuclear Regulatory Commission" and "Commission" shall mean U.S. Nuclear Regulatory Commission;

**\*25. 10 CFR 32.62(e), delete "of this chapter," and add "of U.S. NRC" after "Agreement State";\***

\*[23.]\* \*26.\* 10 CFR 32.71(d), "U.S. Nuclear Regulatory Commission" and "Commission" shall mean U.S. Nuclear Regulatory Commission;

\*[24.]\* \*27.\* 10 CFR 32.72(a), replace "part 35 of this chapter" with "N.J.A.C. 7:28-55";

\*[25.]\* \*28.\* 10 CFR 32.72(b)(5)(i), add "or the U.S. Nuclear Regulatory Commission" after "Agreement State";

\*[26.]\* \*29.\* 10 CFR 32.72(b)(5)(ii), add "or U.S. Nuclear Regulatory Commission" after "Agreement State";

\*[27.]\* \*30.\* 10 CFR 32.72(5)(iii) and (iv), "Commission" shall mean the U.S. Nuclear Regulatory Commission;

\*[28.]\* \*31.\* 10 CFR 32.72(d), replace "other Federal, and State" with "Federal, and other State";

\*[29.]\* \*32.\* 10 CFR 32.74(a), replace "part 35 of this chapter" with "N.J.A.C. 7:28-55";

\*[30.]\* \*33.\* 10 CFR 32.74(a)(3), add "or the U.S. Nuclear Regulatory Commission" after "Agreement State"; and

\*[31.]\* \*34.\* 10 CFR 32.303, replace all of 10 CFR 32.303 with "The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act."

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, "Notice to Employees" shall mean the Department's Form RPP-14, "Notice to Employees, Standards for Protection Against Radiation," available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

SUBCHAPTER 54. SPECIFIC DOMESTIC LICENSES OF BROAD SCOPE FOR BYPRODUCT MATERIAL

7:28-54.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 33 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 33.8, Information collection requirements: OMB approval; and

2. 10 CFR 33.21, Violations.

(c) The following provisions of 10 CFR Part 33 are incorporated by reference with the specified changes:

1. "Commission," "Nuclear Regulatory Commission," "NRC," and "U.S. Nuclear Regulatory Commission," as used in the provisions of Part 33 of the Code of Federal Regulations that are incorporated by reference, shall mean the Department;

2. 10 CFR 33.1, replace "part 30 of this chapter" with "N.J.A.C. 7:28-51";

3. 10 CFR 33.12, replace with "Application for specific licenses from the State and renewals shall be filed with the Department on forms available from the Department";

4. 10 CFR 33.16, replace "Part 30 of this chapter" with "N.J.A.C. 7:28-51";

5. 10 CFR 33.17(a)(3), replace "part 32, 34, or 35 of this chapter" with "N.J.A.C. 7:28-53, 55, and 63"; and

6. 10 CFR 33.23, replace all of 10 CFR 33.23 with "The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act."

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, "Notice to Employees," shall mean the Department's Form RPP-14, "Notice to Employees, Standards for Protection Against Radiation," available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

#### SUBCHAPTER 55. MEDICAL USE OF BYPRODUCT MATERIAL

##### 7:28-55.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 35 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 35.8, Information collection requirements: OMB approval;

2. 10 CFR 35.11(c), License required;

3. 10 CFR 35.12(c)(1)(ii);

4. 10 CFR 35.13(a)\*(1) and (2)\*\*[, License amendments]\*;

5. 10 CFR 35.63(b)(2)(i) through 35.63(b)(2)(iii), Determination of dosages of unsealed byproduct material for medical use;

6. 10 CFR 35.63(c)(3)(i) through 35.63(c)(3)(ii); and

7. 10 CFR 35.4001, Violations.

(c) The following provisions of 10 CFR Part 35 are incorporated by reference with the specified changes:

1. "Commission," "Nuclear Regulatory Commission," "NRC," and "U.S. Nuclear Regulatory Commission," as used in the provisions of Part 35 of the Code of Federal Regulations, that are incorporated by reference, means the Department, except at:

i. 10 CFR 35.2, Definitions;

ii. 10 CFR 35.13(b)(4)(iii), License amendments; and

iii. 10 CFR 35.67(b)(2), Requirements for possession of sealed sources and brachytherapy sources;

2. 10 CFR 35.1, replace "parts 19, 20, 21, 30, 71, 170 and 171 of this chapter" with "N.J.A.C. 7:28-6, 50, 51, 61 and 64";

3. 10 CFR 35.6(b) and (c), replace "another Federal agency" with "a Federal agency";

4. 10 CFR 35.7, replace "other Federal, and State" with "Federal, and other State";

5. 10 CFR 35.10(a), delete "A Government agency or a Federally recognized Indian Tribe that possesses and uses accelerator-produced radioactive material or discrete sources of radium-226 for which a specific medical use license is required by the Atomic Energy Act of 1954, as amended, must comply with the requirements of this part, including provisions that are specific to licensees, on November 30, 2007.", replace "All other persons" with "All persons," and delete "on August 8, 2009, or earlier as noticed by the NRC";

6. 10 CFR 35.11(a), add "or the U.S. NRC" after "an Agreement State";

7. 10 CFR 35.12(b)(1), replace "and one copy of Form 313, 'Application for Material License,'" with "application for a specific license on NJRAD Form 313 available from the Department,";

Recodify existing 4.-5. as 8.-9. (No change in text.)

10. 10 CFR 35.12(c)(1)(i), replace "NRC Form 313" with "NJRAD Form 313," and replace "Material" with "Radioactive Materials";

11. 10 CFR 35.12(c)(1)(ii), delete wording and replace with "A request for an amendment may be submitted on NJRAD Form 313 or by a letter addressed to the Department.";

12. 10 CFR 35.13(b)(4)(i) and (ii), add "or U.S. NRC" after "Agreement State";

\*13. 10 CFR 35.13(a), delete "except that -";\*

\*[13.]\* \*14.\* 10 CFR 35.14(a), add "or U.S. NRC" after both occurrences of "or Agreement State";

\*[14.]\* \*15.\* 10 CFR 35.14(a), "Commission" in both occurrences of "Commission master material" shall mean U.S. NRC;

\*[15.]\* \*16.\* 10 CFR 35.14(c), replace "§30.6 of this chapter" with "N.J.A.C. 7:28-1.5";

\*[16.]\* \*17.\* 10 CFR 35.15, replace "Part 33 of this chapter" with "N.J.A.C. 7:28-54";

\*[17.]\* \*18.\* 10 CFR 35.18(a)(1), replace "NRC Form 313" with "NJRAD Form 313";

\*[18.]\* \*19.\* 10 CFR 35.18(a)(2), replace "Part 170 of this chapter" with "N.J.A.C. 7:28-64";

\*[19.]\* \*20.\* 10 CFR 35.18(a)(4), replace "Part 30 of this chapter" with "N.J.A.C. 7:28-51";

\*[20.]\* \*21.\* 10 CFR 35.19, add "with the approval of the Commission on Radiation Protection," after "may," and replace "and will not endanger life or property or the common defense and security and are otherwise in the public interest" with "in accordance with the provisions of N.J.A.C. 7:28-2.8";

\*[21.]\* \*22.\* 10 CFR 35.49(a), replace "10 CFR Part 30" with "N.J.A.C. 7:28-51" and add "or of the U.S. NRC" after "an Agreement State";

\*[22.]\* \*23.\* 10 CFR 35.49(b), add "or a U.S. NRC" after "Agreement State";

\*[23.]\* \*24.\* 10 CFR 35.49(c), replace "10 CFR Part 30" with "N.J.A.C. 7:28-51" and add "or of the U.S. NRC" after "Agreement State";

\*[24.]\* \*25.\* 10 CFR 35.50(a), add "or the U.S. NRC" after both occurrences of "Agreement State";

\*[25.]\* \*26.\* 10 CFR 35.50(a), "NRC's" shall mean U.S. NRC's;

\*[26.]\* \*27.\* 10 CFR 35.50(a)(2)(ii)(A), add "or the U.S. NRC" after "Agreement State";

\*[27.]\* \*28.\* 10 CFR 35.50(b)(1)(ii), add "or U.S. NRC" after "Agreement State";

\*[28.]\* \*29.\* 10 CFR 35.50(b)(1)(ii), "Commission" in "Commission master material licensee" shall mean U.S. NRC;

\*[29.]\* \*30.\* 10 CFR 35.50(c)(1), add "or the U.S. NRC" after "Agreement State";

\*[30.]\* \*31.\* 10 CFR 35.51(a), add "or the U.S. NRC" after both occurrences of "Agreement State";

\*[31.]\* \*32.\* 10 CFR 35.51(a), "NRC's" shall mean U.S. NRC's;

\*[32.]\* \*33.\* 10 CFR 35.51(a)(2)(i), add "or the U.S. NRC" after "Agreement State";

\*34. 10 CFR 35.51(b)(2), add "or U.S. NRC" after "Agreement State";\*

\*[33.]\* \*35.\* 10 CFR 35.55(a), add "or the U.S. NRC" after both occurrences of "Agreement State";

\*[34.]\* \*36.\* 10 CFR 35.55(a), "NRC's" shall mean U.S. NRC's;

\*[35.]\* \*37.\* 10 CFR 35.57(a)(1), add "or U.S. NRC" after both occurrences of "Agreement State";

\*[36.]\* \*38.\* 10 CFR 33.57(a)(1), replace both occurrences of "master material license" with "U.S. NRC master material license";

\*[37.]\* \*39.\* 10 CFR 35.57(a)(2), add "or U.S. NRC" after both occurrences of "Agreement State";

\*[38.]\* \*40.\* 10 CFR 33.57(a)(2), replace both occurrences of "master material license" with "U.S. NRC master material license";

\*[39.]\* \*41.\* 10 CFR 35.57(b)(1), add "or U.S. NRC" after both occurrences of "Agreement State";

\*[40.]\* \*42.\* 10 CFR 35.57(b)(1), "Commission" in both occurrences of "Commission master material" shall mean U.S. NRC;

**\*43. 10 CFR 35.57(b)(2), add “or U.S. NRC” after both instances of “Agreement State”; and replace “Commission” with “U.S. NRC” before each instance of master material license;\***

\*[41.]\* **\*44.\*** (No change in text.)

\*[42.]\* **\*44.\*** 10 CFR 35.63(b)(2)(ii), add “or U.S. NRC” after “Agreement State”;

43. 10 CFR 35.63(b)(2)(iii), add “or U.S. NRC” after “Agreement State”;

44. 10 CFR 35.63(c)(3)(i), add “or U.S. NRC” after “Agreement State”;

45. 10 CFR 35.63(c)(3)(ii), add “or U.S. NRC” after “Agreement State”];\*

\*[46.]\* **\*45.\*** 10 CFR 35.65(a) and (b), add “or U.S. NRC” after “Agreement State”;

\*[47.]\* **\*46.\*** 10 CFR 35.67(e)(1), replace “parts 20 and 30 of this chapter” with “N.J.A.C. 7:28-6 and 51”;

Recodify proposed 48.-49. as **\*47.-48.\***. (No change in text.)

\*[50.]\* **\*49.\*** 10 CFR 35.100(a)(1), add “or U.S. NRC” after “Agreement State”;

\*[51.]\* **\*50.\*** 10 CFR 35.100(a)(2), add “or U.S. NRC” after “Agreement State”;

\*[52.]\* **\*51.\*** 10 CFR 35.100(c), add “or U.S. NRC” after “Agreement State”;

\*[53.]\* **\*52.\*** 10 CFR 35.190(a), add “or the U.S. NRC” after both occurrences of “Agreement State”;

\*[54.]\* **\*53.\*** 10 CFR 35.190(a), “NRC’s” shall mean U.S. NRC’s;

\*[55.]\* **\*54.\*** 10 CFR 35.190(b), (c)(1)(ii), and (c)(2), add “or U.S. NRC” after “Agreement State”;

\*[56.]\* **\*55.\*** 10 CFR 35.200(a)(1), add “or U.S. NRC” after “Agreement State”;

\*[57.]\* **\*56.\*** 10 CFR 35.200(a)(2), add “or U.S. NRC” after “Agreement State”;

\*[58.]\* **\*57.\*** 10 CFR 35.200(c), add “or U.S. NRC” after “Agreement State”;

\*[59.]\* **\*58.\*** 10 CFR 35.290(a), add “or the U.S. NRC” after both occurrences of “Agreement State”;

\*[60.]\* **\*59.\*** 10 CFR 35.290(a), “NRC’s” shall mean U.S. NRC’s;

\*[61.]\* **\*60.\*** 10 CFR 35.290(b), (c)(1)(ii) and (c)(2), add “or U.S. NRC” after “Agreement State”;

\*[62.]\* **\*61.\*** 10 CFR 35.300(a)(1), add “or U.S. NRC” after “Agreement State”;

\*[63.]\* **\*62.\*** 10 CFR 35.300(a)(2), add “or U.S. NRC” after “Agreement State”;

\*[64.]\* **\*63.\*** 10 CFR 35.300(c), add “or U.S. NRC” after “Agreement State”;

\*[65.]\* **\*64.\*** 10 CFR 35.390(a), add “or the U.S. NRC” after both occurrences of “Agreement State”;

\*[66.]\* **\*65.\*** 10 CFR 35.390(a), “NRC’s” shall mean U.S. NRC’s;

\*[67.]\* **\*66.\*** 10 CFR 35.390(b)(1)(ii) and (b)(2), add “or U.S. NRC” after “Agreement State”;

\*[68.]\* **\*67.\*** 10 CFR 35.392(a), add “or the U.S. NRC” after both occurrences of “Agreement State”;

\*[69.]\* **\*68.\*** 10 CFR 35.392(a), “NRC’s” shall mean U.S. NRC’s;

\*[70.]\* **\*69.\*** 10 CFR 35.392(b), (c)(2) and (c)(3), add “or U.S. NRC” after “Agreement State”;

\*[71.]\* **\*70.\*** 10 CFR 35.394(a), add “or the U.S. NRC” after both occurrences of “Agreement State”;

\*[72.]\* **\*71.\*** 10 CFR 35.394(a), “NRC’s” shall mean U.S. NRC’s;

\*[73.]\* **\*72.\*** 10 CFR 35.394(b), (c)(2), and (c)(3), add “or U.S. NRC” after “Agreement State”;

\*[74.]\* **\*73.\*** 10 CFR 35.396(a) and (b), add “or U.S. NRC” after “Agreement State”;

\*[75.]\* **\*74.\*** 10 CFR 35.396(c), add “or the U.S. NRC” after “Agreement State”;

\*[76.]\* **\*75.\*** 10 CFR 35.396(d)(2) and (d)(3), add “or U.S. NRC” after “Agreement State”;

\*[77.]\* **\*76.\*** 10 CFR 35.490(a), add “or the U.S. NRC” after both occurrences of “Agreement State”;

\*[78.]\* **\*77.\*** 10 CFR 35.490(a), “NRC’s” shall mean U.S. NRC’s;

\*[79.]\* **\*78.\*** 10 CFR 35.490(b)(1)(ii), (b)(2), and (b)(3), add “or U.S. NRC” after “Agreement State”;

\*[80.]\* **\*79.\*** 10 CFR 35.491(a) and (b)(3), add “or U.S. NRC” after “Agreement State”;

\*[81.]\* **\*80.\*** 10 CFR 35.590(a), add “or the U.S. NRC” after both occurrences of “Agreement State”;

\*[82.]\* **\*81.\*** 10 CFR 35.590(a), “NRC’s” shall mean U.S. NRC’s;

\*[83.]\* **\*82.\*** 10 CFR 35.605(a), (b), and (c), add “or the U.S. NRC” after “Agreement State”;

\*[84.]\* **\*83.\*** 10 CFR 35.655(b), add “or the U.S. NRC” after “Agreement State”;

\*[85.]\* **\*84.\*** 10 CFR 35.690(a), add “or the U.S. NRC” after both occurrences of “Agreement State”;

\*[86.]\* **\*85.\*** 10 CFR 35.690(a), “NRC’s” shall mean U.S. NRC’s;

\*[87.]\* **\*86.\*** 10 CFR 35.690(b)(1)(ii), (b)(2), and (b)(3), add “or the U.S. NRC” after “Agreement State”;

\*[88.]\* **\*87.\*** 10 CFR 35.900(b)(2), add “or the U.S. NRC” after “Agreement State”;

\*[89.]\* **\*88.\*** (No change in text.)

\*[90.]\* **\*89.\*** 10 CFR 35.3045(d), replace the wording of 10 CFR 35.3045(d) with “The licensee shall submit a written report to the Department at the address or fax number listed in N.J.A.C. 7:28-1.5 within 15 days after discovery of the medical event.”

\*[91.]\* **\*90.\*** (No change in text.)

\*[92.]\* **\*91.\*** 10 CFR 35.3047(d), replace “By an appropriate method listed in §30.6 of this chapter, the” with “The” and replace “appropriate NRC Regional Office listed in §30.6 of this chapter” with “Department at the address or fax number listed in N.J.A.C. 7:28-1.5”;

\*[93.]\* **\*92.\*** 10 CFR 35.3067, replace “appropriate NRC Regional Office listed in §30.6 of this chapter, by an appropriate method listed in §30.6 of this chapter” with “Department at the address or fax number listed in N.J.A.C. 7:28-1.5” and delete “, with a copy to the Director, Office of Federal and State Materials and Environmental Management Programs.”; and

\*[94.]\* **\*93.\*** 10 CFR 35.4002, replace all of 10 CFR 35.4002 with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act.”

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, “Notice to Employees” shall mean the Department’s Form RPP-14, “Notice to Employees, Standards for Protection Against Radiation,” available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

#### SUBCHAPTER 56. LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

##### 7:28-56.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 36 are not incorporated by reference. If there is a cross reference to a Federal citation specifically excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

**\*1. 10 CFR 36.2, Definitions, the following definitions are not incorporated by reference: “commencement of construction, paragraph 2” and “construction, paragraph 9(ii)”;**\*

\*[1.]\* **\*2.\*** 10 CFR 36.8, Information collection requirements: OMB approval; and

\*[2.]\* **\*3.\*** 10 CFR 36.91, Violations.

(c) The following provisions of 10 CFR Part 36 are incorporated by reference with the specified changes:

1. (No change.)

2. 10 CFR 36.1(a), replace “parts 19, 20, 21, 30, 71, 170 and 171 of this chapter” with “N.J.A.C. 7:28-6, 50, 51, 61 and 64”;

3. 10 CFR 36.5, replace “Except as specifically authorized by the Commission in writing, no” with “No” and replace “by the General Counsel” with “signed and approved by the Commissioner of the Department.”

4. 10 CFR 36.11, replace "Form NRC 313, 'Application for Material License,'" with "NJRAD Form 313," delete "and one copy," and replace "appropriate NRC Regional Office listed in appendix D to part 20 of this chapter" with "Department at the address or fax number listed in N.J.A.C. 7:28-1.5";

5. 10 CFR 36.11, replace "part 170 of this chapter" and "§ 170.31 of this chapter" with "N.J.A.C. 7:28-64";

6. 10 CFR 36.13(g), add "or the U.S. Nuclear Regulatory Commission" after "Agreement State";

7. 10 CFR 36.15, replace "§ 170.31" with "N.J.A.C. 7:28-64" and replace "the Atomic Energy Act of 1954, as amended" with "the Act";

8. (No change in text.)

9. 10 CFR 36.51(a)(2), replace "parts 19 and 36 of NRC regulations" with "N.J.A.C. 7:28-50 and 56";

10. 10 CFR 36.59(a), add "or the U.S. Nuclear Regulatory Commission" after both occurrences of "Agreement State";

11. 10 CFR 36.59(c), add "or U.S. NRC" after both occurrences of "Agreement State"; and

12. 10 CFR 36.93, replace all of 10 CFR 36.93 with "The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act."

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, "Notice to Employees" shall mean the Department's Form RPP-14, "Notice to Employees, Standards for Protection Against Radiation," available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

#### SUBCHAPTER 57. LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

##### 7:28-57.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 39 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 39.8, Information collection requirements: OMB approval; and

2. 10 CFR 39.101, Violations.

(c) The following provisions of 10 CFR Part 39 are incorporated by reference with the specified changes:

1. "Commission," "Nuclear Regulatory Commission," "NRC," and "U.S. Nuclear Regulatory Commission," as used in the provisions of Part 39 of the Code of Federal Regulations that are incorporated by reference, means the Department, except at:

i. 10 CFR 39.41(f), Design and performance criteria for sources; and

ii. 10 CFR 39.63(l), Operating and emergency procedures.

2. 10 CFR 39.1(a), replace "parts 19, 20, 21, 30, 40, 70, 71, and 150 of this chapter" with "N.J.A.C. 7:28-6, 50, 51, 58, 60, 61 and 64";

3. 10 CFR 39.5, replace "Except as specifically authorized by the Commission in writing, no" with "No," and replace "by the General Counsel" with "signed and approved by the Commissioner of the Department";

4. 10 CFR 39.11, replace "Form NRC 313" with "NJRAD Form 313" and replace "appropriate NRC Regional Office listed in appendix D of part 20 of this chapter" with "Department at the address or fax number listed in N.J.A.C. 7:28-1.5";

5. 10 CFR 39.11, replace "part 170 of this chapter" and "§ 170.31 of this chapter" with "N.J.A.C. 7:28-64";

6. 10 CFR 39.31(a)(3), replace "10 CFR part 71" with "N.J.A.C. 7:28-61";

7. (No change.)

8. 10 CFR 39.35(b), add "or the U.S. NRC" after both occurrences of "Agreement State";

9. 10 CFR 39.35(d)(1), add "or U.S. NRC" after both occurrences of "Agreement State";

10. 10 CFR 39.35(d)(2), replace "appropriate NRC Regional Office listed in appendix D of part 20 of this chapter" with "Department at the address or fax number listed in N.J.A.C. 7:28-1.5";

11. 10 CFR 39.43(c), (d) and (e), add "or U.S. NRC" after "Agreement State";

12. 10 CFR 39.51, add "or by the U.S. NRC" after "by an Agreement State";

13. 10 CFR 39.61(a)(2)(i), replace "parts 19, 20, and 39 of this chapter" with "N.J.A.C. 7:28-6, 50 and 57";

14. 10 CFR 39.61(b)(1), replace "parts 19 and 20 of this chapter" with "N.J.A.C. 7:28-6 and 50";

15. 10 CFR 39.63(l), replace "Part 21" with "10 CFR part 21";

16. (No change in text.)

17. (No change in text.)

18. 10 CFR 39.77(a), replace "NRC Regional Office by telephone" with "Department by telephone as per N.J.A.C. 7:28-1.5" and replace "using an appropriate method listed in § 30.6(a) of this chapter," with "at the address or fax number listed in N.J.A.C. 7:28-1.5";

19. 10 CFR 39.77(c)(1), replace "appropriate NRC Regional Office" with "Department at the phone number listed in N.J.A.C. 7:28-1.5";

20. 10 CFR 39.77(d), replace "appropriate NRC Regional Office" with "Department at the address or fax number listed in N.J.A.C. 7:28-1.5";

21. 10 CFR 39.91, add "with the approval of the Commission on Radiation Protection," after "initiative," and replace "and will not endanger life or property or the common defense and security and are otherwise in the public interest" with "in accordance with the provisions of N.J.A.C. 7:28-2.8"; and

22. 10 CFR 39.103, replace all of 10 CFR 39.103 with "The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act."

(d)-(e) (No change.)

#### SUBCHAPTER 58. DOMESTIC LICENSING OF SOURCE MATERIAL

##### 7:28-58.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 40 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. (No change.)

2. 10 CFR 40.4, Definitions. The following definitions in 10 CFR 40.4 are not incorporated by reference: **"byproduct material," "commencement of construction, paragraph 2,"** "Commission," **\*and "construction, paragraph 9(ii)"** \* [and "byproduct material"]\*;

3.-10. (No change.)

11. 10 CFR 40.31(c), (f) through (h), (j), (k), (l), and (m), Application for specific licenses;

12.-17. (No change.)

**\*18. 10 CFR 40.52, Certain items containing source material; requirements for license to apply or initially transfer.**

**19. 10 CFR 40.53, Conditions of licenses issued for initial transfer of certain items containing source material: Quality control, labeling, and records and reports.;**\*

Recodify existing 18.-20. as **\*20.-22.\*** (No change in text.)

**\*[21.]\* \*23.\*** 10 CFR 40.67, Requirement for advance notice for importation of natural uranium from countries that are not party to the Convention on the Physical Protection of Nuclear Material;

**\*[22.]\* \*24.\*** 10 CFR 40.91, Violations; and

**\*[23.]\* \*25.\*** (No change in text.)

(c) The following provisions of 10 CFR Part 40 are incorporated by reference with the specified changes:

1.-2. (No change.)

3. "Source and byproduct material" as used in the provisions of Part 40 of the Code of Federal Regulation that are incorporated by reference, means source material, except when specifically noted in this subchapter;

4. 10 CFR 40.6, replace "Except as specifically authorized by the Commission in writing, no" with "No," and replace "by the General

Counsel” with “signed and approved by the Commissioner of the Department.”;

5. 10 CFR 40.7(a), delete “The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.”;

6. 10 CFR 40.7(a)(3), replace “Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended” with “Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq.”;

7. 10 CFR 40.7(e)(1), replace “part 19” with “N.J.A.C. 7:28-50”;

Recodify existing 4.-13. as 8.-17. (No change in text.)

Recodify existing 15.-18. as 18.-21. (No change in text.)

**\*22. 10 CFR 40.36(c)(5) replace “20.1402” with “N.J.A.C. 7:28-12.1”;**

**23. 10 CFR 40.36(d)(1)(B) replace “20.1402” with “N.J.A.C. 7:28-12.1,” add “or restricted” after “unrestricted,” and delete “, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria”;**\*

Recodify existing 19.-20. as **\*24.-25.\*** (No change in text.)

Recodify existing 23.-30. as **\*26.-33.\*** (No change in text.)

**\*34. 10 CFR 40.46(b) delete “or Appendix A to this part”;**\*

**[32.]\* \*35.\*** 10 CFR 40.51(b)(5) add “or the U.S. Nuclear Regulatory Commission” after “Agreement State”;

**[33.]\* \*36.\*** 10 CFR 40.51(c), add “or the U.S. Nuclear Regulatory Commission” after both instances of “Agreement State”;

**[34.]\* \*37.\*** 10 CFR 40.60(c)(2), replace “NRC’s Document Control Desk” with “Department” and replace “appropriate NRC regional office listed in appendix D to part 20 of this chapter” with “Department”; and

**[35.]\* \*38.\*** 10 CFR 40.82, replace all of 10 CFR 40.82 with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act.”

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, “Notice to Employees” shall mean the Department’s Form RPP-14, “Notice to Employees, Standards for Protection Against Radiation,” available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

#### SUBCHAPTER 59. LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

7:28-59.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 61 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1.-2. (No change.)

3. 10 CFR 61.16, Other information;

4. 10 CFR 61.23(i) and (j), Standards for issuance of a license; and

5. 10 CFR 61.83, Violations.

(c) The following provisions of 10 CFR Part 61 are incorporated by reference with the specified changes:

1.-12. (No change.)

13. 10 CFR 61.24(k)(1), replace “NRC Regional Administrator” with “Supervisor of the Radioactive Materials Program”;

14. (No change.)

15. (No change in text.)

16. 10 CFR 61.80(i)(1), delete “to the Director, Office of Federal and State Materials and Environmental Management Programs,” and replace “with a copy to the appropriate NRC Regional Office shown in appendix D to part 20 of this chapter” with “to the Department at the address or fax number listed in N.J.A.C. 7:28-1.5”; and

17. 10 CFR 61.84, replace all of 10 CFR 61.84 with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act.”

(d) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, “Notice to Employees” shall mean the Department’s Form RPP-14, “Notice to Employees, Standards for Protection Against Radiation,” available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

(e)-(g) (No change.)

#### SUBCHAPTER 60. DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

7:28-60.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 70 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. (No change.)

2. 10 CFR 70.4, definition of **\*“commencement of construction, paragraph 2,”\*** “Commission”\*, and **\*“construction, paragraph 9(ii)”\***;

3.-6. (No change.)

7. 10 CFR 70.19(a)(1) and (2), pertaining to recognition of specific licenses;

Recodify existing 7.-13. as 8.-14. (No change in text.)

15. 10 CFR 70.25(a)(1), Financial assurance and recordkeeping for decommissioning;

Recodify existing 15.-23. as 16.-24. (No change in text.)

25.-32. (No change.)

**\*33. 10 CFR 70.73, Renewal of licenses;\***

**[33.]\* \*34.\*** (No change in text.)

**[34.]\* \*35.\*** 10 CFR 70.76, Backfitting;

**[35.]\* \*36.\*** 10 CFR 70.91, Violations; and

**[36.]\* \*37.\*** (No change in text.)

(c) The following provisions of 10 CFR Part 70 are incorporated by reference with the specified changes:

1. “Commission,” “Nuclear Regulatory Commission,” “NRC,” and “U.S. Nuclear Regulatory Commission,” as used in the provisions of Part 70 of the Code of Federal Regulations that are incorporated by reference, mean the Department except when specifically noted in this subchapter and at 10 CFR 70.42(b)(2);

2. 10 CFR 70.6, Interpretations, delete “Except as specifically authorized by the Commission in writing, no” with “No,” and replace “by the General Counsel” with “signed and approved by the Commissioner of the Department,”;

3. (No change in text.)

4. 10 CFR 70.7(a), delete “The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.”;

5. 10 CFR 70.7(a)(3), replace “Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended” with “Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq.”;

6. 10 CFR 70.7(e)(1), replace “part 19” with “N.J.A.C. 7:28-50”;

Recodify existing 3.-4. as 7.-8. (No change in text.)

9. 10 CFR 70.19(a)(3), replace “(3)” with “(1),” and replace “an Agreement State” with “New Jersey”;

10. 10 CFR 70.19(b), add “or the U.S. NRC” after both instances of “Agreement State.”

11. 10 CFR 70.19(c), replace “19, 20,” with “N.J.A.C. 7:28-50 and N.J.A.C. 7:28-6” and delete “and 21”;

12. (No change in text.)

**\*13. 10 CFR 70.25(c)(5) replace “20.1402” with “N.J.A.C. 7:28-12.1”;**

**14. 10 CFR 70.25(e)(1)(B) replace “20.1402” with “N.J.A.C. 7:28-12.1,” add “or restricted” after “unrestricted,” and delete “, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria”;**\*

\*[13.]\* \*15.\* 10 CFR 70.25(g)(3)(iii), replace “10 CFR part 20, subpart E” with “N.J.A.C. 7:28-12”;

\*[14.]\* \*16.\* 10 CFR 70.25(g)(3)(iv), replace “10 CFR part 20, subpart E” with “N.J.A.C. 7:28-12”;

Recodify proposed 15.-18. as \*17.-20.\* (No change in text.)

\*[19.]\* \*21.\* 10 CFR 70.42(b)(4), add “or non-Agreement State” after “Agreement State” and add “or the U.S. NRC” after both instances of “State”;

\*[20.]\* \*22.\* 10 CFR 70.42(c), add “or the U.S. NRC” after both instances of “Agreement State”;

\*[21.]\* \*23.\* 10 CFR 70.42(d)(4), add “or the U.S. NRC” after “Agreement State”;

\*[22.]\* \*24.\* 10 CFR 70.42(d)(5), add “or the U.S. NRC” after “Agreement State”;

\*[23.]\* \*25.\* 10 CFR 70.50(c)(2), delete “to the NRC’s Document Control Desk,” and replace “with a copy to the appropriate NRC regional office listed in appendix D to part 20 of this chapter” with “to the Department at the address or fax number listed in N.J.A.C. 7:28-1.5”;

\*[24.]\* \*26.\* 10 CFR 70.56, delete “, produced” and “production.”

(d)-(e) (No change.)

(f) For those facilities whose radioactive materials are licensed solely by the Department, NRC Form 3, “Notice to Employees” shall mean the Department’s Form RPP-14, “Notice to Employees, Standards for Protection Against Radiation,” available from the Department by contacting the Radioactive Materials Program at the address, phone number, or website listed in N.J.A.C. 7:28-1.5.

#### SUBCHAPTER 61. PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

##### 7:28-61.1 Incorporation by reference

(a)-(b) (No change.)

(c) The following provisions of 10 CFR 71 are incorporated by reference with the specified changes:

1. “Commission,” “Nuclear Regulatory Commission,” “NRC,” and “U.S. Nuclear Regulatory Commission,” as used in the provisions of Part 71 of the Code of Federal Regulations that are incorporated by reference, means the Department, except at:

i. 10 CFR 71.0(a)2 and (d)1, Purpose and Scope;

ii.-viii. (No change.)

2.-5. (No change.)

6. 10 CFR 71.7(b), replace “Administrator of the appropriate Regional Office” with “Supervisor, Radioactive Materials Program”;

7.-10. (No change.)

11. 10 CFR 71.13, replace “10 CFR part 35” with “N.J.A.C. 7:28-55” and add “or the U.S. NRC” after “Agreement State”;

12. (No change in text.)

13. 10 CFR 71.100, replace all of 10 CFR 71.100 with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act.”

Recodify existing 15.-16. as 14.-15. (No change in text.)

(d)-(e) (No change.)

#### SUBCHAPTER 62. RECIPROCITY

##### 7:28-62.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 150 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 150.3, Definitions of “Commission,” “foreign obligation,” “offshore waters,” “production facility,” “reconciliation,” “uranium enrichment facility,” and “utilization facility”;

2.-12. (No change.)

13. 10 CFR 150.20(a)(1)(i)(ii) and (iii), pertaining to recognition of Agreement State licenses;

14. (No change in text.)

15. 10 CFR 150.30, Violations;

Recodify existing 14.-15. as 16.-17. (No change in text.)

(c) The following provisions of 10 CFR Part 150 are incorporated by reference with the specified changes:

1. “Commission,” “Nuclear Regulatory Commission,” “NRC,” and “U.S. Nuclear Regulatory Commission,” as used in the provisions of Part 150 of the Code of Federal Regulations that are incorporated by reference, mean the Department except at:

i. 10 CFR 150.3, definition of “Agreement State”;

2. 10 CFR 150.3, “Act” shall mean the Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq.;

3. 10 CFR 150.5, replace “Except as specifically authorized by the Commission in writing, no” with “No,” and replace “by the General Counsel” with “signed and approved by the Commissioner of the Department,”;

4. 10 CFR 150.20, add “or the U.S. Nuclear Regulatory Commission” after “Agreement State”;

5. 10 CFR 150.20(a)(1), add “or the U.S. Nuclear Regulatory Commission” after “Agreement State,” and replace “-” with “New Jersey”;

6. 10 CFR 150.20(a)(2), add “or the U.S. Nuclear Regulatory Commission” after “Agreement State”;

7. 10 CFR 150.20(b), add “or by the U.S. Nuclear Regulatory Commission” after the first occurrence of “Agreement State,” and replace all instances of “a non-Agreement State, in an area of exclusive Federal jurisdiction within an Agreement State, or in offshore waters” with “New Jersey”;

8. 10 CFR 150.20(b), references to specific sections of 10 CFR part 30, refer to N.J.A.C. 7:28-51, sections of 10 CFR part 40, refer to N.J.A.C. 7:28-58, sections of 10 CFR part 70, refer to N.J.A.C. 7:28-60, and sections of 10 CFR part 39, refer to N.J.A.C. 7:28-57. Delete “§§ 74.11, 74.15, and 74.19 of this chapter” and replace “10 CFR parts 19, 20, and 71” with “N.J.A.C. 7:28-6, 50, and 61,” and replace “part 34” with “N.J.A.C. 7:28-63”;

9. 10 CFR 150.20(b)(1), replace “NRC Form-241, ‘Report of Proposed Activities in Non-Agreement States’” with “NJRAD Form-241, ‘Reciprocity Application Form,’” and add “or U.S. Nuclear Regulatory Commission:” after “Agreement State”;

10. 10 CFR 150.20(b)(1), replace “§ 170.31 of this chapter with the Regional Administrator of the U.S. Nuclear Regulatory Commission Regional Office listed on the NRC Form 241 and in appendix D to part 20 of this chapter for the Region in which the Agreement State that issued the license is located” with “N.J.A.C. 7:28-64 with the Department”;

11. 10 CFR 150.20(b)(1), replace “Regional Administrator” with “Supervisor, Radioactive Materials Program or designee”;

12. 10 CFR 150.20(b)(1)(i), replace “Region” with “Department” and replace both occurrences of “NRC Form-241” with “NJRAD Form-241”;

13. 10 CFR 150.20(b)(1)(ii), replace “Region” with “Department”;

14. 10 CFR 150.20(b)(1)(iii), replace “NRC Form-241” with “NJRAD Form-241” and add “or the U.S. Nuclear Regulatory Commission” after “Agreement State”;

15. 10 CFR 150.20(b)(2), replace both occurrences of “NRC Form-241” with “NJRAD Form-241” and replace “Regional Administrator” with “Department”;

16. 10 CFR 150.20(b)(3), replace “any non-Agreement State, in an area of exclusive Federal jurisdiction within an Agreement State, or in offshore waters” with “New Jersey”;

17. 10 CFR 150.20(b)(4), replace “non-Agreement States or in areas of exclusive Federal jurisdiction within Agreement States” with “New Jersey” and replace “year, except that the general license in paragraph (a) of this section concerning activities in offshore waters authorizes that person to possess or use radioactive materials, or engage in the activities authorized, for an unlimited period of time” with “year.”;

18. 10 CFR 150.20(b)(5), add “or the U.S. Nuclear Regulatory Commission”; and

19. 10 CFR 150.33, replace the wording of 10 CFR 150.33 with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act.”

(d)-(f) (No change.)

SUBCHAPTER 63. LICENSES FOR INDUSTRIAL RADIOGRAPHY USING SEALED SOURCES AND RADIATION SAFETY REQUIREMENTS FOR SUCH INDUSTRIAL RADIOGRAPHY OPERATIONS

7:28-63.1 Incorporation by reference

(a) (No change.)

(b) The following provisions of 10 CFR Part 34 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 34.8, Information collection requirements: OMB approval; and

2. 10 CFR 34.121, Violations.

(c) The following provisions of 10 CFR Part 34 are incorporated by reference with the specified changes:

1. "Commission," "Nuclear Regulatory Commission," "NRC," and "U.S. Nuclear Regulatory Commission," as used in the provisions of Part 34 of the Code of Federal Regulations that are incorporated by reference, mean the Department, except in 10 CFR 34.20(a)(1) and (2);

2. In every instance, replace "§" or "§§" with "10 CFR";

3. 10 CFR 34.1, replace "10 Parts 19, 20, 21, 30, 71, 150, 170, and 171 of this chapter" with "10 CFR Part 21 and N.J.A.C. 7:28-6, 50, 51, 61, 62 and 64";

4. 10 CFR 34.3, Definitions, "ALARA," replace "10 CFR part 20" with "N.J.A.C. 7:28-6";

5. 10 CFR 34.5, replace "Except as specifically authorized by the Commission in writing, no" with "No," and replace "by the General Counsel" with "signed and approved by the Commissioner of the Department";

6. (No change in text.)

7. 10 CFR 34.20(b)(2), replace "10 CFR part 71" with "N.J.A.C. 7:28-61";

8. 10 CFR 34.25(a), replace "10 CFR part 20 of this chapter" with "N.J.A.C. 7:28-6";

9. 10 CFR 34.27(a), add "New Jersey," after "authorized to do so by";

10. 10 CFR 34.27(b), add "or the U.S. NRC" after "an Agreement State";

11. 10 CFR 34.27(c)(1), add "or by the U.S. NRC" after "or by an Agreement State" and add "or the U.S. NRC" after "or an Agreement State";

12. 10 CFR 34.27(d), replace "Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in §30.6(a) of this chapter" with "Manager, Bureau of Environmental Radiation";

13. 10 CFR 34.27(d), delete "A copy of the report must be sent to the Administrator of the appropriate Nuclear Regulatory Commission's Regional Office listed in appendix D of 10 CFR part 20 of this chapter 'Standards for Protection Against Radiation.'";

14. 10 CFR 34.27(e), add "or the U.S. NRC" after "an Agreement State";

15. (No change in text.)

16. 10 CFR 34.41(c), delete "offshore platform," and add "or by the U.S. NRC" after "by an Agreement State";

17. (No change in text.)

18. 10 CFR 34.43(a)(1), replace "Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in §30.6(a) of this chapter" with "Manager, Bureau of Environmental Radiation, by an appropriate method listed in N.J.A.C. 7:28-51";

19. 10 CFR 34.43(b)(1), replace "10 CFR parts 19 and 20, of this chapter" with "N.J.A.C. 7:28-6 and 50," and replace "10 CFR 71" with "N.J.A.C. 7:28-61";

20. 10 CFR 34.43(c)(1), replace "10 CFR parts 19 and 20 of this chapter" with "N.J.A.C. 7:28-6 and 50" and replace "10 CFR part 71" with "N.J.A.C. 7:28-61";

21. 10 CFR 34.45(a)(1), replace "10 CFR part 20 of this chapter" with "N.J.A.C. 7:28-6";

22. 10 CFR 34.45(a)(9), delete "of this chapter";

23. 10 CFR 34.51, replace "10 CFR part 20 of this chapter" with "N.J.A.C. 7:28-6";

24. 10 CFR 34.89(b)(2), replace "10 CFR parts 19, 20, and 34 of NRC regulations" with "N.J.A.C. 7:28-6, 50, and 63";

25. 10 CFR 34.89(b)(12), delete "of this chapter" and add "or the U.S. NRC" after "Agreement State";

26. 10 CFR 34.101(a), replace "and under other sections of this chapter, such as §21.21, each licensee shall send a written report to the NRC's Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in §30.6(a) of this chapter" with "each licensee shall send a written report to the Manager, Bureau of Environmental Radiation, by an appropriate method listed in N.J.A.C. 7:28-1.5";

27. 10 CFR 34.101(c), replace "appropriate NRC regional office listed in §30.6(a)(2) of this chapter" with "Department, at an appropriate method listed in N.J.A.C. 7:28-1.5";

28. (No change in text.)

29. 10 CFR 34.123, replace the wording of 10 CFR 34.123 with "The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., provides for criminal sanctions for violation of any provision of the Act";

30. 10 CFR Part 34 Appendix A(I)(12), add "and/or the U.S. NRC" after "Agreement States";

31. 10 CFR Part 34 Appendix A(II)(1), add "or U.S. NRC" after "Agreement State";

32. 10 CFR Part 34 Appendix A(II)(2), add "or U.S. NRC" after "equivalent Agreement State" and add "or a U.S. NRC" after "an Agreement State"; and

33. 10 CFR Part 34 Appendix A(III)(1), add "or U.S. NRC" after "Agreement State."

(d)-(e) (No change.)

SUBCHAPTER 64. RADIOACTIVE MATERIALS LICENSE FEES

7:28-64.2 Schedule of fees

(a)-(b) (No change.)

(c) Insofar as the incorporated rules refer to the facilities and/or materials in (b) above, they do not apply. The following provisions of the table identified in (a) above are incorporated by reference with the specified changes:

1. In every instance, replace "§" or "§§" with "10 CFR";

Recodify existing 1.-3. as 2.-4. (No change in text.)

5. Row labeled 3.B., replace "part 30 of this chapter" with "N.J.A.C. 7:28-51";

6. Row labeled 3.C., delete "of this chapter," replace "part 40 of this chapter" with "N.J.A.C. 7:28-58,"; and delete "This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under 171.11(a)(1). The licenses are covered by fee under Category 3.D.";

7. Row labeled 3.D., delete "of this chapter," replace "part 40 of this chapter" with "N.J.A.C. 7:28-58," delete "This category includes licenses issued under §§32.72 and/or 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under §171.11(a)(1).," and replace "part 40 of this chapter" with "N.J.A.C. 7:28-58";

8. Row labeled 3.H., delete "of this chapter" after "Subpart A of part 32," and replace both instances of "part 30 of this chapter" with "N.J.A.C. 7:28-51";

9. Row labeled 3.I., delete "of this chapter" after "Subpart A of part 32," and replace both instances of "part 30 of this chapter" with "N.J.A.C. 7:28-51";

10. Row labeled 3.J., replace "Subpart B of part 32 of this chapter" with "Subpart B of 10 CFR part 32" and replace "part 31 of this chapter" with "N.J.A.C. 7:28-52";

11. Row labeled 3.K., replace "Subpart B of part 32 of this chapter" with "Subpart B of 10 CFR part 32," and replace "part 31 of this chapter" with "N.J.A.C. 7:28-52";

Recodify existing 8.-9. as 12.-13. (No change in text.)

14. Row labeled 3.O., replace "part 34 of this chapter" with "N.J.A.C. 7:28-63" and replace "part 40 of this chapter" with "N.J.A.C. 7:28-58";

**ADOPTIONS**

15. Row labeled 3.Q., replace “part 31 of this chapter” with N.J.A.C. 7:28-52”;  
 Recodify existing 13.-16. as 16.-19. (No change in text.)  
 (d)-(g) (No change.)  
 (h) For a fee identified as “full cost” in Table 1 or 2 below, the licensee shall pay the Department’s actual costs associated with the

**ENVIRONMENTAL PROTECTION**

activity, which costs include, but are not limited to, labor (including fringe and indirect costs), transportation, per diem, materials, legal fees, and monitoring costs, as applicable.

Table 1  
 (No change.)

Table 2

Schedule of Radioactive Materials Annual Fees

<u>FEE CATEGORY</u>	<u>LICENSE TYPE</u>	<u>ANNUAL FEE (\$)</u>
1.	Water Treatment Facilities as defined in N.J.A.C. 7:10-3.6	
A.-D.	(No change.)	
E.	Non-Transient Non-Community Water Systems treating 1,000 gallons per day or less, with accumulated activity of radium greater than or equal to 10 µCi.	\$205
F.	Non-Transient Non-Community Water Systems treating more than 1,000 gallons per day, with accumulated activity of radium greater than or equal to 10 µCi.	\$510
2.-4.	(No change.)	
5.	Devices under a General License Requiring Registration	\$360
6.	General License Registration for Community or Non-Community Water Treatment Systems	\$205
7.	(No change.)	(No change.)
8.	X-ray fluorescence devices	
A.	A government body, department, agency, authority, or any other unit of any state, Federal, county, or local government using a X-ray fluorescence device	\$205
B.	All others	\$1,032

7:28-64.4 Annual fee  
 (a)-(d) (No change.)  
 (e) The Department shall not release a facility for unrestricted use until the applicable annual fee is paid.  
 (f) A licensee who provides sufficient information for the Department to determine that the facility may be released for unrestricted use shall be refunded half of the annual fee, if the information is provided to the Department during the first half of the fiscal year. The first half of the fiscal year ends on midnight of December 31. No refund shall be given if the information is provided to the Department after December 31.

approval of the New Jersey Marine Fisheries Council (Council) at its April 3, 2014, meeting, has corrected the scientific name for two species of hammerhead sharks, and has modified the commercial fishing season for the Hammerhead shark Group, the recreational season and minimum size limit for summer flounder, and the recreational seasons and possession limits for black sea bass. These actions have been taken to comply with the Atlantic States Marine Fisheries Commission (ASMFC) management plan for Atlantic coastal sharks, summer flounder, and black sea bass, and for the optimal utilization of available summer flounder and black sea bass quotas, while at the same time constraining landings to prevent harvest that exceeds available quotas.

Previously, the ASMFC’s Atlantic Coastal Shark and Spiny Dogfish Management Board approved Addendum III to the Interstate Fishery Management Plan for Atlantic Coastal Sharks to modify shark species groupings, including separating the newly formed Hammerhead Group of shark species from the Large Coastal Group, to complement the NMFS Amendment 5a to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP). The NMFS HMS Management Division amended the 2006 Consolidated HMS FMP to address recent findings that scalloped hammerhead and blacknose sharks are overfished and/or experiencing overfishing. In Amendment 5a to the HMS FMP, NMFS changed the coastal shark species groupings to respond to the findings as required under the Magnuson-Stevens Fisheries Conservation and Management Act.

ASMFC initiated and adopted measures in Addendum III to establish the same species groupings as the NMFS which required all three hammerhead sharks (great, scalloped, and smooth) to be removed from the current Large Coastal Group of shark species and placed in a separate Hammerhead Group. The remaining shark species in the Large Coastal

**(a)**

**DIVISION OF FISH AND WILDLIFE**

**Notice of Administrative Changes  
 Marine Fisheries**

**Correction of Hammerhead Shark Scientific Name;  
 and Modification of Hammerhead Shark  
 Commercial Season, Summer Flounder  
 Recreational Season and Size Limit, and Black  
 Sea Bass Recreational Seasons and Possession  
 Limits**

**N.J.A.C. 7:25-18.1 and 18.12**

Take notice that, pursuant to N.J.A.C. 7:25-18.1(p) and 18.12(o), the Commissioner of the Department of Environmental Protection, with the