

Proposed License Condition

The licensee shall comply with Title 10 Code of Federal Regulations, Part 37 as follows:

(a) Except as set forth in (b) and (c) below, this license condition incorporates by reference 10 CFR Part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.

(b) The following provisions of 10 CFR Part 37 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 37.5, Definitions, the following definitions are not incorporated by reference: “Act,” “Commission,”

2. 10 CFR 37.7 Communications;

3. 10 CFR 37.11(b);

4. 10 CFR 37.13;

5. 10 CFR 37.43(d)(9), Protection of information;

6. 10 CFR Part 37.77(f), Protection of information;

7. 10 CFR 37.107 Violations; and

8. 10 CFR 37.109 Criminal penalties.

(c) The following provisions of 10 CFR Part 37 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 37 of

the Code of Federal Regulations that are incorporated by reference, mean the New Jersey Department of Environmental Protection, except for the following instances:

- i. 10 CFR 37.5 in definition of “Byproduct material” and in the definition of “Fingerprint orders”;**
- ii. 10 CFR 37.25(b)(2);**
- iii. 10 CFR 37.27(a);**
- iv. 10 CFR 37.27(c)(1) through (3);**
- v. 10 CFR 37.29(a)(1);**
- vi. 10 CFR 37.29(a)(7);**
- vii. 10 CFR 37.29(a)(8);**
- viii. 10 CFR 37.71;**
- iv. 10 CFR 37.77(a)(1) “on the NRC’s website”**

2. “of this part,” “to this part, “by this subpart,” “subject to this subpart,” “under this subpart” or “in this part” shall mean “of this subchapter,” “to this subchapter,” “by this subchapter,” “subject to this subchapter,” “under this subchapter” or “in this subchapter;

3. “NRC Operations Center (301-816-5100)” shall mean “Department of Environmental Protection’s hotline (1-877 WARNDP (1-877-927-6337))”

except for the following instances:

4. “Security Orders” as used in the provisions of Part 37 of the Code of Federal Regulations that are incorporated by reference, mean the license conditions imposed in NJ Radioactive Materials licenses which implement the

NRC's Order Imposing Increased Controls (EA-05-090) and the NRC's Orders Imposing Fingerprinting (EA-07-305).

5. 10 CFR 37.5 Definitions, "Atomic Energy Act of 1954" or "Act" shall mean the "Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq." except for the following instances:

- i. 10 CFR 37.29(a);**
- ii. 10 CFR 37.29(a)(7);**
- iii. 10 CFR 37.29(b);**

6. 10 CFR 37.5 Definitions, in the definition of "Fingerprint orders", delete "or the legally binding requirements issued by Agreement States";

7. 10 CFR 37.5 Definitions, in the definition of "License" replace "parts 30 through 36 and 39" with "subchapters 50 through 57 and 63";

8. 10 CFR 37.5 Definitions, in the definition of "License issuing authority" replace "or the appropriate agency of an Agreement State" with "the U.S. Nuclear Regulatory Commission or the appropriate agency of an Agreement State";

9. 10 CFR 37.5 Definitions, in the definition of "Person" replace "Government agency" with "State or local government agency" and delete "other than the Commission or the DOE 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 2(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842), and any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity”;

10. 10 CFR 37.9 Interpretations, replace “by the General Counsel” with “signed and approved by the Commissioner of the Department”;

11. 10 CFR 37.11(a) , replace “Commission” with “Department, with approval of the Commission on Radiation Protection,” and replace “by law 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”;

12. 10 CFR 37.41(a)(3) replace “NRC regional office specified in §30.6 of this chapter” with “Bureau of Environmental Radiation at the address specified in N.J.A.C. 7:28-1.5”;

13. 10 CFR 37.43(d)(1) delete “Except as provided in paragraph (d)(9)”;

14. 10 CFR 37.45(b) replace “appropriate NRC regional office listed in §30.6(a)(2) of this chapter” with “Bureau of Environmental Radiation at the number specified in N.J.A.C. 7:28-1.5”;

15. 10 CFR 37.109 delete all of 37.109 (a) and (b) and replace with “The Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq., as amended, provides for criminal sanctions for violation of any provision of the Act.”

16. 10 CFR 37.57(c) replace “NRC by an appropriate method listed in §37.7” with “Bureau of Environmental Radiation at the address specified in N.J.A.C. 7:28-1.5”;

17. 10 CFR 37.77(a)(1) replace “Notifications to the NRC must be to the NRC’s Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington DC, 20555-0001” with “Notifications to the Department must be to the Manager, Bureau of Environmental Radiation at the address specified in N.J.A.C. 7:28-1.5”;

18. 10 CFR 37.77 (a)(1) replace “The notification to the NRC may be made by email to RAMQC_SHIPMENTS@nrc.gov or by fax to 301-816-5151” with “The notification to the Bureau of Environmental Radiation may be made by email to RAMQC@dep.nj.gov or by fax at the number specified in N.J.A.C. 7:28-1.5”;

19. 10 CFR 37.77(c)(1) replace “and to the NRC’s Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington DC, 20555-0001” with “and to the Department’s Manager, Bureau of Environmental Radiation at the address specified in N.J.A.C. 7:28-1.5”;

20. 10 CFR 37.77(c)(2) replace “the NRC’s Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington DC, 20555-0001” with “the Department’s Manager, Bureau of Environmental Radiation at the address specified in N.J.A.C. 7:28-1.5”;

21. 10 CFR 37.77(d) replace “and to the NRC’s Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington DC, 20555-0001” with “and to the Department’s Manager, Bureau of Environmental Radiation at the address specified in N.J.A.C. 7:28-1.5”;

22. 10 CFR 37.81(a) replace “updates to the NRC’s Operations Center” with “updates to the Department’s hotline”

23. 10 CFR 37.81(b) replace “NRC Operations Center” with “Department’s hotline”; and

24. 10 CFR 37.81(g) replace “NRC by an appropriate method listed in §37.7” with “Department’s Manager, Bureau of Environmental Radiation at the address specified in N.J.A.C. 7:28-1.5,” and delete “In addition, the licensee shall provide one copy of the written report addressed to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.”.