



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

November 17, 2015

Ms. Jenny Goodman, Acting Manager
Bureau of Environmental Radiation
New Jersey Department of Environmental Protection
P.O. Box 420, Mail Code 25-01
Trenton, NJ 08625-0420

Dear Ms. Goodman:

We have reviewed the proposed revisions to the New Jersey Radiation Protection Rules, received by our office on October 19, 2015. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on November 17, 2015.

As a result of our review, we have three comments that are related to compatibility. These have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that the New Jersey regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final New Jersey regulations. However, we have determined that if your regulations were adopted, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements." We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in NMSS Procedure SA-201, "Review of State Regulatory Requirements," please highlight any final changes and provide a copy to the Division of Material, Safety, State, Tribal, and Rulemaking Programs, NMSS.

The SRS Data Sheet summarizes our knowledge of the status of other New Jersey regulations, as indicated. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the NMSS State Communication Portal: <https://scp.nrc.gov/rulemaking.html>.

J. Goodman

-2-

If you have any questions regarding the review, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact Michelle Beardsley, State Regulation Review Coordinator, at (610) 337-6942 (michelle.beardsley@nrc.gov) or Stephen Poy at (301) 415-7135 (stephen.poy@nrc.gov).

Sincerely,

/RA Duncan White for/

Pamela J. Henderson, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Compatibility Comments
2. New Jersey SRS Data Sheet

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Package ML15294A442

COMPATIBILITY COMMENTS ON NEW JERSEY PROPOSED REGULATIONS

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	7.28-65.1(c)(1)(ix)	37.77(a) – (d)	2013-1	<p>Advance notification of shipment of category 1 quantities of radioactive material</p> <p>In 7:28-65.1(c)(1)(ix), New Jersey incorporates 10 CFR 37.77 by reference while maintaining that all references to the “NRC” in 37.77 mean the “U.S. Nuclear Regulatory Commission.” However, the notifications required in the introductory paragraph to 37.77, 37.77(a)(1), (a)(3), (c)(1), (c)(2), and (d) should be provided to New Jersey, not the NRC.</p> <p>NJ needs to amend its regulations to address the comment above in order to meet the Compatibility Category B designation assigned to 10 CFR 37.77(a)-(d).</p>
2	7.28-1.5(b)	37.27(a)	2013-1	<p>Reporting of events</p> <p>The language in 7.28-1.5(b) requiring that “all communications regarding radioactive materials...be addressed to the New Jersey Department of Environmental Protection...” conflicts with NJ regulations that require communications be addressed to the NRC, such as in 10 CFR 37.27(a).</p> <p>NJ should amend 7.28-1.5(b) to indicate that only communications intended for NJ should addressed according to 7.28-1.5(b).</p> <p>NJ needs to amend 7.28-1.5(b) to address the comment above in order to meet the Compatibility Category B designation assigned to 10 CFR 37.27(a).</p>
3	7.28-1.6(i), Table 1 7.28-	37.5, <i>Agreement State</i>	2013-1	<p>Definitions</p> <p>The word and term replacements in 7.28-1.6(i), Table 1, change the</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
	65.1(c)(1) & (3)			<p>definition of Agreement State in 10 CFR 37.5 so that it does not meet the Compatibility Category B designation assigned to it.</p> <p>New Jersey should include 10 CFR 37.5, <i>Agreement State</i>, in the list of regulations in 7.28-65.1(c)(1) & 7.28-65.1(c)(3).</p> <p>NJ needs to amend its regulations to address the comment above in order to meet the Compatibility Category B designation assigned to 10 CFR 37.5, <i>Agreement State</i>.</p>

STATE REGULATION STATUS

State: New Jersey

Tracking Ticket Number: 16-05

Date: November 17, 2015

[1 amendment(s) reviewed identified by a * at the beginning of the equivalent NRC requirement.]

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1991-1 – 2009-1	55 FR 843; 56 FR 11504; 56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; 56 FR 64980; 56 FR 34104; 57 FR 45566; 58 FR 39628; 58 FR 7715; 58 FR 33886; 58 FR 68726; 59 FR 1618; 59 FR 28220; 59 FR 36026; 59 FR 61767; 59 FR 65243; 60 FR 322; 60 FR 7900; 60 FR 15649; 60 FR 25983; 60 FR 28323; 60 FR 36038; 60 FR 38235; 60 FR 48623; 60 FR 50248; 61 FR 28724; 61 FR 1109; 61 FR 24669; 61 FR 65120; 62 FR 1662; 62 FR 4120; 62 FR 5907; 62 FR 28947; 62 FR 39057; 62 FR 63634; 63 FR 1890; 63 FR 13773; 63 FR 29535; 63 FR 31604; 63 FR 37059; 63 FR 39477; 63 FR 45393; 63 FR 50127; 64 FR 17506; 64 FR 42269; 64 FR 54543; 64 FR 55524; 65 FR 20337; 65 FR 63750; 65 FR 79162; 67 FR 16298; 67 FR 20249; 68 FR 57327; 69 FR 3697; 70 FR 2001; 70 FR 16336; 71 FR 1926; 70 FR 72128; 71 FR 15005; 71 FR 65685; 71 FR 65685, 72 FR 59162; 72 FR 45147; 72 FR 54207; 72 FR 58473; 72 FR 55864; 72 FR 70901; 72 FR 68043; 74 FR 33901	N/A	10/16/08 ML090510716 Final ML14148A131	Comments 03/13/09 ML090510003 No Comments 08/13/2014 ML14148A028	New Jersey submitted an application for Agreement State Status on October 16, 2008 (see Incoming Package ML). This package contained a final version of all New Jersey's regulations which will be used once the Agreement between NRC and New Jersey is effective. Comments from the 3/13/2009 comment letter are addressed in the 4/18/2013 submission And response (see ML13108A246 and ML13119A402).
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Final ML14148A131	No Comments 08/13/2014 ML14148A028	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2011-1	Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512	12/17/2015	Final ML14148A131	Comments 08/13/2014 ML14148A028	
2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951	11/14/2014	Final ML14148A131	No Comments 08/13/2014 ML14148A028	
2012-1	Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015	05/23/2014 ML14148A131	No Comments 08/13/2014 ML14148A028	
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015	Final ML14148A131	No Comments 08/13/2014 ML14148A028	
2012-3	Technical Corrections Part 30, 34, 40 and 71 77 FR 39899	08/06/2015	Final ML14148A131	No Comments 08/13/2014 ML14148A028	
2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015	Final ML14148A131	No Comments 08/13/2014 ML14148A028	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
*2013-1	Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922	03/19/2016	Proposed License Condition ML15274A377 Proposed ML15292A555	No Comments 10/20/2015 ML15274A372 Comments 11/17/2015 ML15292A442	NJ addressed Part 37 only
2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310	08/27/2016			
2015-1	Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143	01/26/2018			
2015-2	Safeguards Information - Modified Handling Categorization, Change for Materials Facilities Parts 30, 37, 73, and 150 79 FR 58664, 80 FR 3865	01/28/2018			
2015-3	Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements Part 71 80 FR 33987	07/13/2018			
2015-4	Miscellaneous Corrections, Parts 37 and 40 80 FR 45841	09/02/2018			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
N/A	10 CFR 19.4, 32.1, 35.60 and 70.73	N/A	Final ML14148A131	No Comments 08/13/2014 ML14148A028	