

**SUBCHAPTER 62. RECIPROCITY**

**§ 7:28-62.1 Incorporation by reference**

(a) Except as set forth in (b) and (c) below, this subchapter incorporates by reference 10 CFR Part 150, Exemptions and Continued Regulatory Authority in Agreement States and in offshore waters under Section 274 [42 U.S.C. § 2021].

(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. 10 CFR 150.4, Communications;
3. 10 CFR 150.7, Persons in offshore waters not exempt;
4. 10 CFR 150.8, Information collection requirements: OMB approval;
5. 10 CFR 150.10, Persons exempt;
6. 10 CFR 150.14, Commission regulatory authority for physical protection;
7. 10 CFR 150.15, Persons not exempt;
8. 10 CFR Part 150.15a, Continued Commission authority pertaining to byproduct material;
9. 10 CFR Part 150.16, Submission to Commission of nuclear material transfer reports;
10. 10 CFR Part 150.17, Submission to Commission of source material reports;
11. 10 CFR Part 150.17a, Compliance with requirements of US/IAEA safeguards agreement;
12. 10 CFR Part 150.19, Submission to Commission of tritium reports;
13. 10 CFR 150.20(a)(1)(i)(ii) and (iii), pertaining to recognition of Agreement State licenses;
14. 10 CFR Part 150.21, Transportation of special nuclear material by aircraft;
15. 10 CFR 150.30, Violations;
16. 10 CFR 150.31, Requirements for Agreement State regulation of byproduct material; and
17. 10 CFR 150.32, Funds for reclamation or maintenance of byproduct material.

(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 that:
  - 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) The incorporation by reference of 10 CFR 150.20(b) shall not include the ability to issue general licenses to operate in areas of exclusive Federal jurisdiction and offshore waters, but only to Agreement State and NRC licensees that wish to operate within New Jersey's jurisdiction in accordance with N.J.A.C. 7:28-50.1(d).

(e) Reports that are to be submitted to the Department pursuant to this subchapter shall be submitted to the address at N.J.A.C. 7:28-1.5.

(f) Requests for adjudicatory hearings shall be made in accordance with N.J.A.C. 7:28-4.17, and requirements governing requests for stay of the effective date of the Department decision for which an adjudicatory hearing is requested are set forth at N.J.A.C. 7:28-4.18.

#### HISTORY:

Amended by R.2014 d.083, effective May 5, 2014.  
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).  
Rewrote (b) and (c).

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

#### § 7:28-63.1 Incorporation by reference

(a) Except as set forth in (b) and (c) below, this subchapter incorporates by reference 10 CFR Part 34, Licenses for Industrial Radiography Using Sealed Sources and Radiation Safety Requirements for Such Industrial Radiographic Operations.

(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. 10 CFR 34.11, replace "on NRC Form 313, 'Application for Material License,' in accordance with the provisions of § 30.32 of this chapter," with "an original application for a specific State license";

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";