

## RADIATION PROTECTION PROGRAMS

§ 7:28-5.4

In the introductory paragraph of (a), deleted "and/or radioactive material" following "machine"; in (a)1, inserted "for Registrants"; deleted former (a)2 and (a)3; and recodified former (a)4 through (a)7 as (a)2 through (a)5.

### § 7:28-5.4 (Reserved)

#### HISTORY:

Repealed by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).

See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a). Section was "Termination of controlled areas".

## SUBCHAPTER 6. STANDARDS FOR PROTECTION AGAINST RADIATION

### § 7:28-6.1 Incorporation by reference

(a) Except as set forth in (b), (c), and (d) below, this subchapter incorporates by reference 10 CFR Part 20, Standards for Protection Against Radiation.

(b) The Department does not regulate nuclear reactors, special nuclear materials in quantities sufficient to form a critical mass, high-level waste disposal facilities, or byproduct material defined in Section 11e(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2014). Insofar as the incorporated rules refer to those facilities and/or materials previously referenced, those references are not incorporated, nor do any cross references include those facilities and/or materials.

(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. 10 CFR 20.1001, Purpose;
2. 10 CFR 20.1002, Scope;
3. 10 CFR 20.1003, Definitions, the following definitions are not incorporated by reference: "act," "Commission," "Department," and "sanitary sewerage system";
4. 10 CFR 20.1007, Communications;
5. 10 CFR 20.1009, Implementation collection requirements: OMB approval;
6. 10 CFR 20.1401, General provisions and scope;
7. 10 CFR 20.1402, Radiological criteria for unrestricted use;
8. 10 CFR 20.1406(b);
9. 10 CFR 20.1403, Criteria for license termination under restricted conditions;
10. 10 CFR 20.1404, Alternate criteria for license termination;
11. 10 CFR 20.1405, Public notification and public participation;
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. "Nuclear Regulatory Commission," "NRC," "Commission," and "U.S. Nuclear Regulatory Commission," as used in the provisions of Part 20 of the Code of Federal Regulations that are incorporated by reference, mean the New Jersey Department of Environmental Protection, except when specifically noted in this subchapter;

2. 10 CFR 20.1003, in the definition of "ALARA," replace "licensed activity" with "licensed or registered activity," and "and licensed materials" with "licensed materials, and registered ionizing radiation producing machine sources";

3. 10 CFR 20.1003, in the definition of "background radiation," in the first sentence replace "or special nuclear material" with "special nuclear material, or technologically enhanced naturally occurring radioactive material," and replace in the last sentence "or special nuclear materials regulated by the Commission" with "or special nuclear materials regulated by the State or the NRC, or diffuse NARM regulated by the State";

4. 10 CFR 20.1003, in the definition of "controlled area," replace "licensee" with "licensee or registrant";

5. 10 CFR 20.1003, in the definition of "declared pregnant woman," replace "licensee" with "licensee or registrant";

6. 10 CFR 20.1003, in the definition of "license," replace "parts 30 through 36, 39, 40, 50, 60, 61, 63, 70, or 72," with "N.J.A.C. 7:28-4, 51 through 60, or 63";

7. 10 CFR 20.1003, in the definition of "licensed material," replace "special nuclear material," with "special nuclear material in quantities not sufficient to form a critical mass, diffuse NARM";

8. 10 CFR 20.1003, in the definition of "occupational dose," replace "licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person," with "licensed and unlicensed, or registered or unregistered sources of radiation, whether in possession of the licensee or registrant or other person";

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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))"

10. 10 CFR 20.1003, in the definition of "public dose," replace "under the control of a licensee," with "under the control of a licensee or registrant."

11. 10 CFR 20.1003, in the definition of "survey," replace "or other sources of radiation." with ", other sources of radiation, or radiation from ionizing radiation-producing machines." After the last sentence in the definition of "survey," add "For registrants, the survey must be made under the supervision of a qualified individual."

12. 10 CFR 20.1003, in the definition of "unrestricted area," replace "licensee" with "licensee or registrant";

13. 10 CFR 20.1006, 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,";

14. 10 CFR 20.1201, replace "licensee" with "licensee or registrant," except in 10 CFR 20.1201(e);

15. 10 CFR 20.1207, replace entire section with "The licensee or registrant shall ensure that the annual occupational dose for minors does not exceed 10 percent of the annual dose limits specified for adult workers in 10 CFR 20.1201.";

16. 10 CFR 20.1208, replace "licensee" with "licensee or registrant";

17. 10 CFR 20.1301, replace "licensee" with "licensee or registrant;" and replace "sanitary sewer system" with "domestic treatment works";

18. 10 CFR 20.1301(a)(1), replace "licensed operation" with "licensed or registered operation";

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. 10 CFR 20.2001(a)(3), replace "within the limits of § 20.1301; or" with "within the limits of § 20.1301, provided prior permission in writing, in the form of a New Jersey Pollutant Discharge Elimina-

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tion System permit, is obtained from the Department in accordance with N.J.A.C. 7:14A for discharges to ground or surface waters; or";

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

22. 10 CFR 20.2003, replace "sanitary sewerage" with "domestic treatment works";

23. Replace the text of 10 CFR 20.2201(a)(2) with "Reports must be made to the address and telephone numbers indicated in N.J.A.C. 7:28-1.5";

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";

25. Replace the text of 10 CFR 20.2202(d) with "Reports made by licensees in response to the requirements of this section must be made to the address and telephone numbers indicated in N.J.A.C. 7:28-1.5.";

26. 10 CFR 20.2203(b)(2), delete "Privacy Act Information:";

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";

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";

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

30. Replace the language at 10 CFR 20.2402 with "Section 26:2D-22 of the Radiation Protection Act of 1958, as amended, provides for criminal sanctions for violation of any provision of the Act."

(e) 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 (c) and (d).

Amended by R.2016 d.022, effective March 7, 2016 (operative March 19, 2016).

See: 47 N.J.R. 2589(a), 47 N.J.R. 2695(a), 48 N.J.R. 409(b).

In (a), substituted ", (c), and (d)" for "and (c)".