

with "in accordance with the provisions of N.J.A.C. 7:28-2.8";

8. 10 CFR 61.7(c)(4), replace "Department" with "Department of Energy";

9. 10 CFR 61.12(k), replace "part 20 of this chapter" with "N.J.A.C. 7:28-6";

10. 10 CFR 61.13(c), replace "part 20 of this chapter" with "N.J.A.C. 7:28-6";

11. 10 CFR 61.20(c), replace "part 170 of this chapter" with "N.J.A.C. 7:28-64";

12. 10 CFR 61.23(d), replace "part 20 of this chapter" with "N.J.A.C. 7:28-6";

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

14. 10 CFR 61.43, replace "part 20 of this chapter" with "N.J.A.C. 7:28-6";

15. 10 CFR 61.71, 10 CFR 61.72(a), 10 CFR 61.73(a), 10 CFR 61.73(b), and 10 CFR 61.73(c), replace "Director" with "Manager of the Bureau of Environmental Radiation";

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) Those facilities which possess a license from the Department and the NRC for radioactive materials shall post both the NRC's Form 3, "Notice to Employees" and the Department's Form RPP-14, "Notice to Employees, Standards for Protection Against Radiation."

(f) 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.

(g) 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 the section.

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

**§ 7:28-60.1 Incorporation by reference**

(a) Except as set forth in (b) and (c) below, this subchapter incorporates by reference 10 CFR Part 70, Domestic Licensing of Special Nuclear Material.

(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. 10 CFR 70.1(c) through (e), Purpose;
2. 10 CFR 70.4, definition of "commencement of construction, paragraph 2," "Commission", and "construction, paragraph 9(ii)";
3. 10 CFR 70.5, Communications;
4. 10 CFR 70.8, Information collection requirements: OMB approval;
5. 10 CFR 70.13, Department of Defense;
6. 10 CFR 70.14, Foreign military aircraft;
7. 10 CFR 70.19(a)(1) and (2), pertaining to recognition of specific licenses;
8. 10 CFR 70.20a, General license to possess special nuclear material for transport;
9. 10 CFR 70.20b, General license for carriers of transient shipments of formula quantities of strategic special nuclear material, special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, and irradiated reactor fuel;
10. 10 CFR 70.21(a)1, (c), and (f) through (h), Filing;
11. 10 CFR 70.22(b), (c), and (f) through (n), Contents of application;
12. 10 CFR 70.23(a)(6) through (12), and (b), Requirements for the approval of applications;
13. 10 CFR 70.23a, Hearing required for uranium enrichment facility;
14. 10 CFR 70.24, Criticality accident requirements;
15. 10 CFR 70.25(a)(1), Financial assurance and recordkeeping for decommissioning;
16. 10 CFR 70.31(c) through (e), Issuance of licenses;
17. 10 CFR 70.32(a)(1), (4) through (7), (b)(1), (3), (4), and (c) through (k), Conditions of licenses;
18. 10 CFR 70.37, Disclaimer of warranties;

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19. 10 CFR 70.40, Ineligibility of certain applicants;
20. 10 CFR 70.42(b)(6), Transfer of special nuclear material;
21. 10 CFR 70.44, Creditor regulations;
22. 10 CFR 70.51(c), Records requirements;
23. 10 CFR 70.52, Reports of accidental criticality;
24. 10 CFR 70.55(c), Inspections;
25. 10 CFR 70.59, Effluent monitoring reporting requirements;
26. 10 CFR 70.60, Applicability;
27. 10 CFR 70.61, Performance requirements;
28. 10 CFR 70.62, Safety program and integrated safety analysis;
29. 10 CFR 70.64, Requirements for new facilities or new processes at existing facilities;
30. 10 CFR 70.65, Additional content of applications;
31. 10 CFR 70.66, Additional requirements for approval of license application;
32. 10 CFR 70.72, Facility changes and change process;
33. 10 CFR 70.73, Renewal of licenses;
34. 10 CFR 70.74, Additional reporting requirements;
35. 10 CFR 70.76, Backfitting;
36. 10 CFR 70.91, Violations;
37. 10 CFR 70.82, Suspension and operation in war or national emergency; and
38. Appendix A.

(c) In addition to the changes outlined in N.J.A.C. 7:28-1.6, 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. 10 CFR 70.4, in definition of "person," replace "Department" with "Department of Energy";
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";

7. 10 CFR 70.11, replace "Department" with "Department of Energy";

8. 10 CFR 70.17(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 compliance with N.J.A.C. 7:28-2.8";

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. 10 CFR 70.21(d), replace "regulations contained in part 2 of this chapter" with "Open Public Records Act (N.J.S.A. 47:1A-1 et seq.);"

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)(i)(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";

15. 10 CFR 70.25(g)(3)(iii), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12";

16. 10 CFR 70.25(g)(3)(iv), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12";

17. 10 CFR 70.38(j)(2), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12";

18. 10 CFR 70.38(k)(3)(i), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12";

19. 10 CFR 70.38(k)(3)(ii), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12";

20. 10 CFR 70.42(b)(1), replace "Department" with "Department of Energy";

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";

22. 10 CFR 70.42(c), add "or the U.S. NRC" after both instances of "Agreement State";

23. 10 CFR 70.42(d)(4), add "or the U.S. NRC" after "Agreement State";

24. 10 CFR 70.42(d)(5), add "or the U.S. NRC" after "Agreement State";

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"; and

26. 10 CFR 70.56, delete ", produced" and "production,".

(d) 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.

(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.

(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.

**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 the section.

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 (b)36, deleted "and" from the end; in (b)37, substituted "and" for a period; added (b)38; in the introductory paragraph of (c), substituted "In addition to the changes outlined in N.J.A.C. 7:28-1.6, the" for "The"; and in (c)14, updated the first CFR reference.

**SUBCHAPTER 61. PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIALS**

**§ 7:28-61.1 Incorporation by reference**

(a) Except as set forth in (b) and (c) below, this subchapter incorporates by reference 10 CFR Part 71, Packaging and Transportation of Radioactive Material.

(b) The following provisions of 10 CFR Part 71 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 71.6, Information collection requirements: OMB approval;
2. 10 CFR 71.10, Public inspection of application;
3. 10 CFR 71.14(b), Exemptions for low-level materials;

4. 10 CFR 71.19, Previously approved package;
  5. 10 CFR 71.31, Contents of application;
  6. 10 CFR 71.33, Package description;
  7. 10 CFR 71.35, Package evaluation;
  8. 10 CFR 71.37, Quality assurance;
  9. 10 CFR 71.38, Renewal of a certificate of compliance or quality assurance program approval;
  10. 10 CFR 71.39, Requirement for additional information;
  11. 10 CFR 71.41, Demonstration of compliance;
  12. 10 CFR 71.43, General standards for all packages;
  13. 10 CFR 71.45, Lifting and tie-down standards for all packages;
  14. 10 CFR 71.51, Additional requirements for Type B packages;
  15. 10 CFR 71.55, General requirements for fissile material packages;
  16. 10 CFR 71.59, Standards for arrays of fissile material packages;
  17. 10 CFR 71.61, Special requirements for Type B packages containing more than 105A2;
  18. 10 CFR 71.63, Special requirement for plutonium shipments;
  19. 10 CFR 71.64, Special requirements for plutonium air shipments;
  20. 10 CFR 71.65, Additional requirements;
  21. 10 CFR 71.71, Normal conditions of transport;
  22. 10 CFR 71.73, Hypothetical accident conditions;
  23. 10 CFR 71.74, Accident conditions for air transport of plutonium;
  24. 10 CFR 71.75, Qualification of special form radioactive material;
  25. 10 CFR 71.77, Qualification of LSA-III Material;
  26. 10 CFR 71.101(c)(2), (d) through (e), Quality assurance requirements;
  27. 10 CFR 71.107, Package design control;
  28. 10 CFR 71.109, Procurement document control;
  29. 10 CFR 71.111, Instructions, procedures and drawings;
  30. 10 CFR 71.113, Document control;
  31. 10 CFR 71.115, Control of purchased material, equipment and services;
  32. 10 CFR 71.117, Identification and control of materials, parts and components;
  33. 10 CFR 71.119, Control of special processes;
  34. 10 CFR 71.121, Internal inspection;
  35. 10 CFR 71.123, Test control; and
  36. 10 CFR 71.125, Control of measuring and test equipment.
- (c) In addition to the changes outlined in N.J.A.C. 7:28-1.6, the following provisions of 10 CFR 71 are