

§ 7:28-61.1

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;

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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

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 71 of the Code of Federal Regulations that are incorporated by reference, means the Department, except at:

- i. 10 CFR 71.0(a)2 and (d)1, Purpose and Scope;
- ii. 10 CFR 71.4, definitions for "Certificate Holder," "Certificate of Compliance(CoC)" and "Package (3) Type B Package";
- iii. 10 CFR 71.17;
- iv. 10 CFR 71.88(a)4, Air transport of plutonium;
- v. 10 CFR 71.93(c), Inspections and tests;
- vi. 10 CFR 71.95(a)(1) and (a)(2);
- vii. 10 CFR 71.97(c)(1), (c)(3)(iii), and (f), Advance notification of shipment of irradiated reactor fuel and nuclear waste; and
- viii. 10 CFR 71.101(f), Quality assurance requirements;

2. 10 CFR 71.0(b), replace "parts of this chapter (e.g., 10 CFR parts 20, 21, 30, 40, 70 and 73)," with "State Regulations (e.g. N.J.A.C. 7:28-6, 51, 58, and 60)" and add "U.S. Nuclear Regulatory Commission (NRC)" into the list of other agencies;

3. 10 CFR 71.1(a), replace rule text with "Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent to the Department as specified in N.J.A.C. 7:28-1.5.;"

4. 10 CFR 71.2, 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.;"

5. 10 CFR 71.4, in definition of special form radioactive material, N.J.A.C. 7:28-1.6(i) shall not apply to replace references to past versions of Part 71 with N.J.A.C. 7:28-61;

6. 10 CFR 71.5(b), replace "Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555-0001" with "the Department in accordance with N.J.A.C. 7:28-1.5.;"

7. 10 CFR 71.7(b), replace "Administrator of the appropriate Regional Office" with "Supervisor, Radioactive Materials Program";

8. 10 CFR 71.9(c), replace "Commission licensee, certificate holder, applicant for a Commission license or a CoC" with "Department licensee, NRC certificate holder, applicant for a Department license or NRC CoC";

9. 10 CFR 71.9(e)(1), replace "Each licensee, certificate holder, and applicant for a license or CoC must prominently post the current revision of NRC Form

3, 'Notice to Employees,' referenced in § 19.11(c) of this chapter" with "Each licensee, certificate holder, and applicant for a license or CoC must prominently post the current revision of Department Form RPP-14, 'Notice to Employees, Standards for Protection Against Radiation,' referenced in Subchapter 50";

10. 10 CFR 71.9(e)2, replace with "Copies of Department Form RPP-14 may be obtained from the Department in accordance with N.J.A.C. 7:28-1.5.;"

11. 10 CFR 71.12, replace "Commission" with "Department, with approval of the Commission on Radiation Protection," and replace "by law and will not endanger life or property nor the common defense and security" with "in accordance with the provisions of N.J.A.C. 7:28-2.8";

12. 10 CFR 71.13, replace "10 CFR part 35" with "N.J.A.C. 7:28-55" and add "or the U.S. NRC" after "Agreement State";

13. 10 CFR 71.95(c), replace "§ 71.1(a)" with "N.J.A.C. 7:28-1.5" and replace "to: ATTN: Document Control Desk, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards" with "to the Department";

14. 10 CFR 71.100, replace all of 10 CFR 71.100 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."

15. 10 CFR 71.101(c)1, replace "§ 71.1(a)" with "N.J.A.C. 7:28-1.5" and replace "to: ATTN: Document Control Desk, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards" with "to the Department"; and

16. 10 CFR 71.101(f), replace "NRC, in accordance with § 71.1" with "Department, in accordance with N.J.A.C. 7:28-1.5."

(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.

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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"; rewrote (c)1iii; added new (c)5; and recodified former (c)5 through (c)15 as (c)6 through (c)16.