

ADOPTIONS

ENVIRONMENTAL PROTECTION

<u>Effective Date</u>	<u>Rate/Million Gallons (based upon a 19.443 mg per day sales base)</u>
July 1, 2020	\$445.82

7:11-4.4 Debt service cost component

(a) (No change.)

(b) A delayed water purchase surcharge will be assessed to all water purchasers who entered into a water purchase contract for an uninterrupted service commencing subsequent to the system operation date (delayed water purchase contract). This includes a purchaser under an initial water purchase contract, which provides for an increase in the amount of uninterrupted service effective subsequent to the system operation date.

1. The following debt service rate based on a sales base of 4.435 million gallons per day, applies to the delayed water purchase contracts commencing July 1, 2001, October 1, 2002, and January 1, 2005.

<u>Period</u>	<u>Rate/Million Gallons (Coverage 120 percent)</u>
7/1/2020 to 6/30/2021	\$438.92

(c) (No change in text.)

7:11-4.5 Capital Fund Component

(a) The Capital Fund Component is to provide, for current funding of major refurbishment, replacement, maintenance, and repair of the existing facilities at a total amount of \$3,000,000 to \$3,500,000 per year. The total annual amount funded by the Capital Fund Component may be adjusted periodically for inflation; however, all capital projects beyond this amount and any enhancements or additions to the System shall be financed through issuance of long-term debt.

(b) The Capital Fund Component Rate per million gallons listed at (c) below based on a sales base of 15.008 million gallons per day applies to initial water purchase contracts and is based on estimated annual capital expenses to properly maintain, rehabilitate, or replace the facilities.

(c) Capital Fund Assessment—initial water purchase contract customers:

<u>Period</u>	<u>Rate/Million Gallons</u>
7/1/2020 to 6/30/2021	\$525.00

(d) The Capital Fund Component Rate per million gallons listed at (e) below based on a sales base of 4.435 million gallons per day applies to the delayed water purchase contracts commencing July 1, 2001, October 1, 2002, and January 1, 2005, in lieu of the Capital Fund Component rate set forth at (c) above.

(e) Capital Fund Assessment—delayed water purchase contract customers:

<u>Period</u>	<u>Rate/Million Gallons</u>
7/1/2020 to 6/30/2021	\$200.00

7:11-4.6 Source water protection fund component

(a) (No change.)

(b) The source water protection fund component is as follows:

<u>Period</u>	<u>Rate/Million Gallons</u>
7/1/2020 to 6/30/2021	\$15.00

7:11-4.7 New Jersey Environmental Infrastructure Financing Program debt component

(a) (No change.)

(b) The New Jersey Environmental Infrastructure Financing Program debt component is as follows:

<u>Period</u>	<u>Rate/Million Gallons</u>
7/1/2020 to 6/30/2021	\$24.93

Recodify existing 7:11-4.7 through 4.17 as 7:11-4.8 through 4.18 (No change in text.)

(a)

**AIR QUALITY, ENERGY, AND SUSTAINABILITY
DIVISION OF CLIMATE, CLEAN ENERGY AND
RADIATION PROTECTION**

COMMISSION ON RADIATION PROTECTION

Radiation Protection Programs

Adopted Repeal and New Rule: N.J.A.C. 7:28-19.16

**Adopted Amendments: N.J.A.C. 7:28-1.6, 12.13, 19.1
through 19.9, 19.14, 19.17, 24.11, 61.1, 64.2, and
64.10**

Adopted New Rule: N.J.A.C. 7:28-19.17

Proposed: December 2, 2019, at 51 N.J.R. 1731(a).

Adopted: May 19, 2020, by Catherine R. McCabe, Commissioner, Department of Environmental Protection, and May 20, 2020, by Julie Timins, M.D., Chairman, Commission on Radiation Protection.

Filed: May 20, 2020, as R.2020 d.061, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 13:1B-1 et seq., 13:1D-1 et seq., 26:2D-1 et seq., 26:2D-25 et seq., and P.L. 2017, c. 281.

DEP Docket Number: 05-19-10.

Effective Date: June 15, 2020.

Expiration Date: February 19, 2027.

The New Jersey Department of Environmental Protection (Department) and the Commission on Radiation Protection (Commission) are adopting three general categories of amendments. The first category implements recent amendments to the Radiologic Technologist Act, N.J.S.A. 26:2D-24 et seq., which created a new license category of radiologist assistant for licensed diagnostic radiologic technologists. The adopted amendments to N.J.A.C. 7:28-19 establish the educational and licensing requirements and identify the scope of practice for this new license category and establish a fee schedule for initial and renewal licensing. The adopted rules also establish requirements for radiologist assistant schools that assign students to New Jersey clinical education centers. The second category relates to the fee schedule for nuclear medicine technologists and fusion imaging computed tomography technologists at N.J.A.C. 7:28-24. The third category relates to the Nuclear Regulatory Commission requirements for Agreement States. The Department and the Commission are adopting amendments to the provisions incorporating 10 CFR Part 35, Medial Use of Byproduct Material, and 10 CFR Part 71, Packaging and Transportation or Radioactive Materials; and to add general provisions that are applicable to all incorporations of the Federal regulations into the chapter by reference, and that otherwise make the State's rules consistent with the Agreement States' rules. The Department and the Commission are also clarifying and correcting the fee schedule, cross-references, terminology, and the previous incorporations of Federal regulations by reference.

This rule adoption can be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

Summary of Public Comments and Agency Responses:

The Department and the Commission received written comments on the proposed amendments from the following persons:

1. Adrienne Ianora, Memorial Sloan Kettering Cancer Center
2. Maria LaGatta

3. Tashika Matthews
4. Gladys Montane, Rutgers University
5. Chirag Patel
6. Jerry Reid, The American Registry of Radiologic Technologists

A summary of the comments timely submitted, and the agency's responses follow. The number(s) in parentheses after each comment correspond to the commenter(s) listed above:

General Comments

1. COMMENT: The Department and the Commission are commended for establishing the license category of radiologist assistant in New Jersey. (1 through 6)

2. COMMENT: Licensure of radiologist assistants will help educational programs in New Jersey and other states by creating an opportunity for work in New Jersey. (5)

3. COMMENT: Radiologist assistants must complete a rigorous academic program including a nationally recognized curriculum, a radiologist-directed clinical preceptorship, and a mandatory national certification. They always practice under the direct supervision of a radiologist, thus ensuring the continuation of high-quality care. The advanced education and training of radiologist assistants enable them to perform assessments and procedures, but not to perform final interpretation of images, or prescribe medications or therapies. Radiologist assistants allow radiologists to focus on interpretations and complex cases, and to consult with referring physicians, thus enhancing patient safety and outcomes. The Department and the Commission are right to establish the educational and licensing requirements for these professionals. (6)

4. COMMENT: There is an increasing number of radiological procedures performed and reviewed by radiologists. Licensed radiologist assistants are needed to assist radiologists by performing invasive and non-invasive procedures. The use of radiologist assistants increases the productivity of radiologists, prevents physician burnout, and improves the workflow. (2, 3, and 5)

5. COMMENT: The recognition of the radiologist assistant program through the American Registry of Radiologic Technologists (ARRT) is an effective way to recognize and reduce redundancy and expense to school. (4)

RESPONSE TO COMMENTS 1 THROUGH 5: The Department and the Commission acknowledge the commenters' support for the proposed rules.

N.J.A.C. 7:28-19.3 General provisions

6. COMMENT: The radiologist assistant rules are appropriate. The radiologist assistant should be able to practice under the American Registry of Radiologic Technologists (ARRT) license in New Jersey. (1)

RESPONSE: The Department and the Commission acknowledge the commenter's support for the proposed rules. Note, however, that the ARRT does not license radiologist assistants. The ARRT certifies individuals who are qualified to perform the role of a radiologist assistant, but individual states issue licenses to practice. Obtaining and maintaining ARRT certification (or certification by another national certification body approved by the Board) are among the requirements for licensure as a radiologist assistant, set forth at N.J.A.C. 7:28-19.3(a)3. The individual must also possess a valid license in diagnostic radiologic technology.

N.J.A.C. 7:28-19.17 Radiologist assistant schools and Clinical Education Centers

7. COMMENT: Proposed N.J.A.C. 7:28-19.17(e)5 requires radiologist assistant schools to inform the Department of the location where the radiologist assistant student will be assigned for clinical education. Please clarify whether the Department wants to be informed of radiologist assistant student clinical assignments that do not occur in New Jersey. (4)

RESPONSE: Proposed N.J.A.C. 7:28-17(a) requires a school that assigns a student to a New Jersey clinical education center to be Board-recognized. Proposed subsections (b), (c), (g), and (h) describe the process for a school to obtain and maintain Board recognition, and the relief that is available if recognition is denied. Under proposed subsection (i), the Department will make a list of Board-recognized schools. Board recognition is not required if a school sends students only to out-of-State clinical education centers. Out-of-State clinical education centers must

comply with the requirements of the state in which they are located. The Department intended that proposed subsections (e) and (f) also apply only to those schools that assign students to clinical education centers in New Jersey, and to those clinical education centers. The Department and the Commission are modifying N.J.A.C. 7:28-19.17(e) and (f) on adoption to reflect that intent.

8. COMMENT: Proposed N.J.A.C. 7:28-19.17(e)6iii provides that once a student who is determined to be clinically competent in a given delegated fluoroscopic procedure, the student may perform the procedure without direct (in-room) supervision. This is an appropriate provision, because the students go through rigorous didactic training and are required by the program to observe, participate, and perform under direct supervision until the radiologist has deemed them competent. (4)

RESPONSE: The Department and the Commission acknowledge the commenter's support for the rule. Note, however, that the New Jersey Board of Medical Examiners (BME) has the authority to promulgate rules establishing the scope of practice of a radiologist assistant, including the degree of supervision required. Therefore, this lesser degree of supervision is permitted only if the rules of the BME allow it. If the BME's rules do not provide for indirect supervision, then all delegated fluoroscopic procedures must be performed under direct supervision, notwithstanding the competency level of the student.

Also note that, as the Department stated in the notice of proposal, 51 N.J.R. at 1733, until the BME promulgates rules establishing the scope of practice and required level of supervision, the Department will not accept applications for radiologist assistant licenses.

Federal Standards Statement

N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The adopted new rules, amendments, and repeal at N.J.A.C. 7:28-19 and 24 are not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law, or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Therefore, no further analysis is required.

Amendments to the Agreement State program, N.J.A.C. 7:28-1.6, 61.1, 64.2, and 64.10, are adopted in order to comply with Federal requirements for Agreement States. Therefore, they are consistent with, and do not exceed, Federal standards. No further analysis is required.

Full text of the adoption follows (additions to the proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. GENERAL PROVISIONS

7:28-1.6 Incorporation of the Code of Federal Regulations by reference

(a)-(e) (No change.)

(f) In the event that there are inconsistencies or duplications in the requirements of the provisions incorporated by reference from the CFR and the rules set forth in this chapter, the provisions incorporated by reference from the CFR shall prevail, except where the rules set forth in this chapter are more stringent. This includes N.J.A.C. 7:28-12, Remediation Standards for Radioactive Materials, which replaces 10 CFR Part 20, Subpart E, in its entirety, and N.J.A.C. 7:28-55.1(b)5 and 6, which specifically exclude provisions of the CFR that allow determination of dosage of unsealed byproduct material for medical use by methods that do not include direct measurements. The foregoing notwithstanding, as to subparts the NRC identifies as compatibility categories A or B, in the event of inconsistencies or duplications, the provisions of the CFR shall prevail, except as provided in Table 1 below and the non-substantive substitutions identified in individual subchapters of this chapter.

(g) (No change.)

(h) The following provisions of the CFR are not incorporated by reference:

1.-2. (No change.)

3. Each section entitled "communications";

4. Each section that includes “information collection requirements” in the heading; and

5. Any reference to a master material license or a permit issued by a master material licensee.

(i) The following words and terms in the CFR shall be replaced as indicated in Table 1 below, except as otherwise indicated in this chapter:

Table 1: Replacement terms for terms in CFR provisions incorporated by reference

Terms in CFR	Replacement Terms
...	
Part 31	N.J.A.C. 7:28-52
Part 32	N.J.A.C. 7:28-53
Part 33	N.J.A.C. 7:28-54
Part 34	N.J.A.C. 7:28-63
Part 35	N.J.A.C. 7:28-55
Part 36	N.J.A.C. 7:28-56
...	
Part 39	N.J.A.C. 7:28-57
...	
Part 61	N.J.A.C. 7:28-59
...	

(j)-(n) (No change.)

SUBCHAPTER 12. REMEDIATION STANDARDS FOR RADIOACTIVE MATERIALS

7:28-12.13 Requirements pertaining to a change in land use

(a) Any subsequent proposed use of a property that is different from the intended use (other than unrestricted use remedial actions) described in the original remediation proposal shall require a prior review and prior approval by the Department. To initiate this review, 90 calendar days prior to a proposed change in land use, the person or licensee proposing such use shall prepare and submit to the Department’s Bureau of Environmental Radiation at the address listed in N.J.A.C. 7:28-1.5, and to each affected municipality, a brief written description of the new proposed use as compared to the intended use upon which the original remediation was based including all planned soil excavations, and any additional remedial actions to be implemented.

(b) If the Department determines that the proposed new use may cause the dose limitations of N.J.A.C. 7:28-12.8 to be exceeded, the person or licensee requesting the use change shall be required to prepare and submit to the Department’s Bureau of Environmental Radiation at the address listed in N.J.A.C. 7:28-1.5, a dose assessment analysis, containing the information required under N.J.A.C. 7:28-12.11(f)2, (g), and (h), to ascertain whether the dose limitation requirements of N.J.A.C. 7:28-12.8 will be met for the proposed new use.

(c) (No change.)

SUBCHAPTER 19. RADIOLOGIC TECHNOLOGIST AND RADIOLOGIST ASSISTANT

7:28-19.1 Purpose, scope, and applicability

(a) (No change.)

(b) This subchapter:

1.-3. (No change.)

4. Establishes standards for the approval and operation of schools of radiologic technology;

5. Establishes the educational and licensure requirements of radiologist assistant and defines the practice of a radiologist assistant as it pertains to fluoroscopic procedures as authorized by the New Jersey State Board of Medical Examiners; and

6. Establishes the standards for the recognition of a radiologist assistant school.

(c) (No change.)

(d) The following persons are not required to possess a radiologist assistant license under this subchapter in order to perform the activities of a radiologist assistant, but are otherwise subject to the requirements of this subchapter, unless specifically exempted:

1. Students enrolled in a Board-recognized radiologist assistant school in accordance with N.J.A.C. 7:28-19.17;

2. A licensed practitioner as defined at N.J.A.C. 7:28-19.2, provided that the licensed practitioner is practicing within the scope of his or her license; and

3. A person enrolled in, and attending, a school or college of medicine or osteopathy, who is acting within the school’s curriculum, when the person is performing tasks within the scope of practice of a radiologist assistant and is under the direct supervision of a licensed practitioner who is practicing within the scope of his or her license.

Recodify existing (d)-(f) as (e)-(g) (No change in text.)

7:28-19.2 Definitions

In addition to the terms defined at N.J.A.C. 7:28-1 and N.J.S.A. 26:2D-1 et seq., the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Board of Medical Examiners” or “BME” means the State Board of Medical Examiners created pursuant to N.J.S.A. 45:9-1 et seq.

“Chest radiologic technologist (LRT(C))” means a person licensed in accordance with N.J.A.C. 7:28-19.7 whose scope of practice of radiologic technology is limited to the chest area for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (d).

“Clinical education center” means a medical or dental facility (such as an office, hospital, or imaging center) where students engage in the practice of radiologic technology or practice as radiologist assistants for clinical education purposes.

“Delegated fluoroscopic procedures” are those procedures that have been authorized by the Board of Medical Examiners for the radiologist assistant to perform under the level of radiologist supervision specified by the BME.

“Dental radiologic technologist (LRT(D))” means a person licensed in accordance with N.J.A.C. 7:28-19.7 whose scope of practice of radiologic technology is limited to dental radiography for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (e).

“Diagnostic radiologic technologist (LRT(R))” means a person licensed in accordance with N.J.A.C. 7:28-19.7 whose scope of practice of radiologic technology includes all types of radiographic procedures for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (b).

“License” means a written authorization applied for in accordance with this subchapter and issued by the Board authorizing the licensee to engage in a specific scope of practice of radiologic technology or radiologist assistant as set forth at N.J.A.C. 7:28-19.4.

“Orthopedic radiologic technologist (LRT(O))” means a person licensed in accordance with N.J.A.C. 7:28-19.7 whose scope of practice of radiologic technology is limited to the spine and extremities for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (f).

“Podiatric radiologic technologist (LRT(P))” means a person licensed in accordance with N.J.A.C. 7:28-19.7 whose scope of practice of radiologic technology is limited to the operation of x-ray machines on the foot, ankle and the distal third of the lower leg for diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (g).

“Radiation therapist (LRT(T))” means a person licensed in accordance with N.J.A.C. 7:28-19.7 whose scope of practice of radiologic technology is limited to the use of ionizing radiation-producing equipment for therapy simulation and therapeutic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (c).

“Radiologist” means a physician who is licensed by the New Jersey Board of Medical Examiners and is either board-certified by the American Board of Radiology or the American Osteopathic Board of Radiology or another national radiologic certifying body approved by the Board.

“Radiologist assistant (LRT(RA))” means a person who is licensed in accordance with N.J.A.C. 7:28-19.16 and who provides primary advanced-level radiologic care as set forth at N.J.A.C. 7:28-19.4(a) and (i).

“Student” means any person who is currently enrolled in, and attending, a school of radiologic technology approved by the Board or a radiologist assistant school recognized by the Board.

“Urologic radiologic technologist (LRT(U))” means a person licensed in accordance with N.J.A.C. 7:28-19.7 whose scope of practice of radiologic technology is limited to the abdomen and pelvic area for urologic diagnostic purposes, as set forth at N.J.A.C. 7:28-19.4(a) and (h).

7:28-19.3 General provisions

(a) Except as provided at N.J.A.C. 7:28-19.1(c) through (g):

1. No person shall engage in any activity within a scope of practice of radiologic technology as defined at N.J.A.C. 7:28-19.4, unless that person possesses a valid license authorizing the person to engage in that scope of radiologic technology;

2. No person shall operate ionizing radiation-producing equipment or position patients for mammographic procedures, unless that person possesses a valid license in diagnostic radiologic technology and is in compliance with the radiologic technologist personnel requirements of the Mammography Quality Standards Act (42 U.S.C. § 263b) and 21 CFR Part 900, incorporated herein by reference, as supplemented or amended; and

3. No person shall engage in any activity within the scope of practice of a radiologist assistant as defined at N.J.A.C. 7:28-19.4, unless that person possesses a valid license as a radiologist assistant, a valid license in diagnostic radiologic technology, and an active radiologist assistant certification from the American Registry of Radiologic Technologists or another national certification body approved by the Board.

(b) (No change.)

(c) No owner, licensed practitioner, or registrant of ionizing radiation-producing equipment shall cause, allow, or permit any person to engage in any activity within a scope of practice of radiologic technology or radiologic assistant as defined at N.J.A.C. 7:28-19.4, unless:

1. That person possesses a valid license authorizing the person to engage in that scope of radiologic technology or radiologist assistant; and

2. If the person is a radiologist assistant, the person possesses a valid license as a diagnostic radiologic technologist and an active radiologist assistant certification from the American Registry of Radiologic Technologists or another national certification body approved by the Board.

(d) No person shall cause, allow, or permit a radiologic technologist or radiologist assistant to be in the primary beam, unless it is deemed essential for the specific examination by the licensed practitioner and the radiologic technologist or radiologist assistant is wearing protective garments over all body areas in the primary beam as required by N.J.A.C. 7:28-15.9.

(e)-(h) (No change.)

(i) A radiologic technologist or radiologist assistant shall carry his or her current radiologic technology or radiologist assistant license on his or her person at work and display his or her license, upon request of the Department, employer, or any patient.

(j) A radiologic technologist or radiologist assistant shall notify the Department of any conviction of a crime under Federal law or the law of any state within 30 calendar days of such conviction.

(k) Any conviction of a crime committed while not engaged in the practice of radiologic technology or radiologist assistant does not, in itself,

constitute a lack of good moral character for the purposes of N.J.A.C. 7:28-19.6(a)2, 19.9(e), 19.11(a)1, and 19.16(a)1.

(l)-(m) (No change.)

(n) No radiologic technologist or radiologist assistant licensed pursuant to this subchapter shall prescribe a radiological examination.

(o) No radiologic technologist or radiologist assistant licensed pursuant to this subchapter shall render an interpretation of a radiological examination, but may report his or her observations relating to the outcome of a radiological examination to a radiologist.

(p) The license of a radiologic technologist or radiologist assistant may be suspended for a fixed period, or may be revoked, or the technologist may be censured, reprimanded, or otherwise disciplined in accordance with the provisions and procedures set forth in the Radiologic Technologist Act, if after due process, the Board finds that the radiologic technologist or radiologist assistant has committed an act of unethical conduct, as defined at N.J.A.C. 7:28-19.5, or has violated any provision of this chapter, the Radiation Protection Act, or the Radiologic Technologist Act. A radiologic technologist or radiologist assistant may request a hearing in accordance with N.J.A.C. 7:28-19.18(b), if aggrieved by the Board’s actions.

7:28-19.4 Scopes of practice

(a) Any person who possesses a valid license in radiologic technology or as a radiologist assistant shall exercise proper principles of radiation protection with regard to radiological examinations.

(b)-(h) (No change.)

(i) Any person who possesses a valid radiologist assistant license issued in accordance with N.J.A.C. 7:28-19.16 may perform delegated fluoroscopic procedures and other activities as authorized by the BME while under the supervision of a licensed radiologist, at a level of supervision that the BME specifies. See the BME rules at N.J.A.C. 13:35.

7:28-19.5 Unethical conduct

(a) The Board may, in its discretion, consider the acts listed at (a)1 through 13 below as acts of unethical conduct by a person subject to this subchapter. Such acts are subject to sanction pursuant to N.J.S.A. 26:2D-34.a and 36:

1. Conviction of any crime that reasonably relates to any field of radiologic technology or radiologist assistant. For the purpose of this section, a plea of guilty, non vult, no contest, or other such disposition of alleged criminal activity shall be deemed a conviction;

2. Revocation or suspension of a certification, registration, or license to practice radiologic technology or radiologist assistant or censure or reprimand by any other state or certifying agency for reasons consistent with this subchapter;

3. Dishonesty, fraud, deception, misrepresentation, or falsification in:

i. Any field relating to radiologic technology or radiologist assistant or the education of students or in documenting compliance with the Radiation Protection Act, the Radiologic Technologist Act, or this chapter as amended or supplemented;

ii. Obtaining a radiologic technology or radiologist assistant license, including taking the examination and completing the required education and training;

iii. (No change.)

iv. Statements or documentation regarding the status of any national certification relating to the field of radiologic technology or radiologist assistant;

v. (No change.)

vi. Any records relating to the practice of radiologic technology or radiologist assistant or to the education of students;

4. (No change.)

5. Practicing or reporting to work as a radiologic technologist or radiologist assistant while under the influence of alcohol or a controlled dangerous substance, as defined in the New Jersey Code of Criminal Justice;

6. Acting in a negligent or incompetent manner relating to radiologic technology or radiologist assistant or the education of students, as determined by the Board;

7. Maliciously destroying or stealing property or records relating to the practice of radiologic technology or radiologist assistant or to the education of students;

8. Failing to exercise due regard for safety, life, or health while engaged in the practice of radiologic technology or radiologist assistant or the education of students;

9. Violating any term limitation, condition, or restriction that the Board has placed on his or her radiologic technology or radiologist assistant license;

10. (No change.)

11. Impersonating a licensed radiologic technologist or radiologist assistant;

12. Discriminating in the practice of radiologic technology or radiologist assistant or in the education of students, as defined in Section 3 of New Jersey Law Against Discrimination at N.J.S.A. 10:5-3; or

13. Acting in an unprofessional manner, or a manner unbecoming of a radiologic technologist or radiologist assistant or an educator of students, as determined by the Board.

(b) There is a rebuttable presumption that a person who has been determined by the Board to have committed an act of unethical conduct or has been convicted of a crime involving moral turpitude does not meet the standard of good moral character as required for purposes of N.J.A.C. 7:28-19.6(a)2, 19.9(e), 19.11(a)1, and 19.16(a)1.

7:28-19.6 Requirements of applicants for the radiologic technology licensing examination

(a)-(b) (No change.)

(c) The Board may determine that an applicant is ineligible for examination if the applicant does not fulfill the requirements of (a) and (b) above or has violated any provision of this chapter, the Radiation Protection Act, or the Radiologic Technologist Act. The applicant may request a hearing in accordance with N.J.A.C. 7:28-19.18(a), if aggrieved by the Board's actions.

(d)-(f) (No change.)

7:28-19.7 Requirements of applicants for radiologic technology licensure

(a)-(c) (No change.)

(d) The Board may determine that an applicant is ineligible for licensure if the applicant does not fulfill the requirements of (a), (b), and (c) above or has violated any provision of this chapter, the Radiation Protection Act, or the Radiologic Technologist Act. The applicant may request a hearing in accordance with N.J.A.C. 7:28-19.18(a), if aggrieved by the Board's actions.

7:28-19.8 Conditional and restricted licenses

(a) The Board, at its discretion, may place conditions or restrictions on any license including, but not limited to, a condition or restriction limiting the scope of practice of a licensed radiologic technologist or radiologist assistant.

(b) (No change in text.)

7:28-19.9 License expiration, reissuance, and renewal

(a) Except as provided at N.J.A.C. 7:28-19.1(c) or (d), no person, radiologic technologist, or radiologist assistant shall engage in any scope of practice of radiologic technology or radiologist assistant without a valid and effective radiologic technology or radiologist assistant license issued under this subchapter authorizing the licensee to engage in that scope of practice.

(b) (No change.)

(c) A radiologic technologist or radiologist assistant shall inform the Department of any change in his or her name and/or address no later than 30 calendar days after the change.

(d) To maintain a valid license, a radiologic technologist or radiologist assistant shall renew his or her license any time prior to its expiration by submitting a renewal application for a radiologic technology or radiologist assistant license and the required renewal fee specified at N.J.A.C. 7:28-19.10(a)3.

(e) The Board may deny an application for renewal if the Board has determined that the radiologic technologist or radiologist assistant is not of good moral character or has violated any provision of this subchapter, the Radiation Protection Act, or the Radiologic Technologist Act. The applicant may request a hearing as provided by N.J.A.C. 7:28-19.18(b), if aggrieved by the Board's action.

(f) A radiologic technologist or radiologist assistant who possesses an expired license may apply to have the license reissued, provided that the license has not been expired for five years or more. An individual who wishes to have a license reissued that has been expired less than five years shall submit an application for reissuance and the fee specified at N.J.A.C. 7:28-19.10(a)3. If such individual has not engaged in the practice of radiologic technology or radiologist assistant at any time in New Jersey during the period the license was expired, the individual is required only to pay the reissuance fee for the current license period. If such individual has engaged in the practice of radiologic technology or radiologist assistant at any time in New Jersey during the period the license was expired, in addition to the reissuance fee for the current license period, the individual shall pay the reissuance fee for each previous renewal period, in addition to other sanctions that may be imposed under the Radiation Protection Act or the Radiologic Technologist Act for practicing radiologic technology or radiologist assistant without a license.

(g) A radiologic technologist or radiologist assistant who possesses a license that has been expired for five or more years may not have that license renewed, but may apply for a license in accordance with N.J.A.C. 7:28-19.7 or 19.16.

7:28-19.14 School of radiologic technology: process for approval; provisional approval; probationary approval; termination of approval and other general provisions

(a)-(k) (No change.)

(l) A school whose application for approval is denied may request a hearing as provided at N.J.A.C. 7:28-19.18(a) if aggrieved by the Board's actions.

(m) A Board-approved school whose approval is terminated or reduced to probationary may request a hearing as provided at N.J.A.C. 7:28-19.18(b), if aggrieved by the Board's actions.

7:28-19.16 Requirements of applicants for radiologist assistant licensure

(a) Subject to (b) below, the Board shall issue a license to any applicant who has paid to the Department a fee as specified at N.J.A.C. 7:28-19.10(a)2 and has submitted satisfactory evidence to the Board, verified by oath or affirmation, that the applicant:

1. Is of good moral character;

2. Holds at least a bachelor's degree, or the equivalent, from an accredited college or university in the United States;

3. Holds a valid license in diagnostic radiologic technology;

4. Satisfactorily completed a radiologist assistant school approved by the American Registry of Radiologic Technologists or another national certifying body approved by the Board; and

5. Holds a valid active radiologist assistant certification from the American Registry of Radiologic Technologists or another national certifying body approved by the Board.

(b) The Board may determine that an applicant is ineligible for licensure if the applicant does not fulfill the requirements of (a)1 through 5 above or has violated any provision of this chapter, the Radiation Protection Act, or the Radiologic Technologist Act. The applicant may request a hearing in accordance with N.J.A.C. 7:28-19.18(a), if aggrieved by the Board's actions.

7:28-19.17 Radiologist assistant schools and clinical education centers

(a) No school shall assign a radiologist assistant student to a New Jersey clinical education center for training as a radiologist assistant, unless the school is recognized by the Board.

(b) In order to be Board-recognized, a radiologist assistant school shall submit a complete application to the Department. The Department will forward all complete applications to the Board for its consideration. If the application is incomplete, the Department shall notify the school. The school shall be provided an opportunity to complete the application within 90 calendar days of receipt of such notice. If after 90 days the application is still incomplete, the Department will forward the incomplete application to the Board for consideration. A complete application shall include:

1. The name, address, and contact information of the school;

2. The name and credentials of the program director or directors;

3. Proof that the school is approved by the American Registry of Radiologic Technologist or another accreditation agency recognized by the Board;

4. A demonstration that the school complies with (c) and (e)2 through 7 below; and

5. The last three annual examination reports of the school's radiologist assistant graduates' first-time examination performance on the American Registry of Radiologic Technologists or another certifying board recognized by the Board. A school that has graduated students for less than three years shall submit the most recent annual examination reports, if any.

(c) The Board will recognize a radiologist assistant school in which the educational curriculum contains, at a minimum, the following content: patient assessment, management and education; pharmacology and clinical decision making in radiology; contrast media; pathophysiology; radiographic and fluoroscopic procedures; fluoroscopic unit operation and safety; radiation safety; radiation biology; health physics; image correlation to anatomy, physiology, and pathology; clinical pathways related to radiology; quality of care review and audit; directed readings and research; medico-legal and professional standards and governmental standards; and clinical education, which includes testing to determine clinical competency. The curriculum may follow the American Society of Radiologic Technologists curriculum or any nationally recognized curriculum, provided that it does not conflict with this section.

(d) A radiologist assistant student who is enrolled in, and attending, a Board-recognized school, who is acting within the school's curriculum and possesses a valid diagnostic radiologic technology license issued by the Board, is permitted to perform delegated fluoroscopic procedures in New Jersey under the appropriate supervision as prescribed at (e)6 below.

(e) Any radiologist assistant school that assigns radiologist assistant students to a clinical education center ***in New Jersey*** shall:

1. Be recognized by the Board;

2. Ensure that ***[all assigned students possess and maintain] * *each student assigned to New Jersey clinical education centers possesses and maintains*** a valid diagnostic radiologic technology license issued by the Board;

3. Develop and implement a log to track fluoroscopic procedures that are performed by each radiologist assistant student ***assigned to a New Jersey clinical education center***. This log shall include, but not be limited to, the name of the student, the procedure performed, the name of the supervisor responsible for the procedure, the type of supervision provided, and the fluoroscopic time used. The school shall ensure that the log is reviewed at least weekly by the supervising radiologist. If a trend of unexplained high use of fluoroscopic time is identified, the school shall ensure that corrective action by the supervising radiologist is implemented and recorded in the student's file;

4. Develop and implement ***for each student assigned to a clinical education center in New Jersey*** an educational plan for competency-based clinical education, which shall include, but not be limited to, didactic and laboratory instruction, clinical practice, clinical competency testing, and remediation for failed competency evaluations. The school shall ensure that no person other than a radiologist determines clinical competency;

5. Prior to the start of the assignment ***at a clinical education center in New Jersey***, inform the Department of the location where the radiologist assistant student will be assigned for clinical education, the name of each supervising radiologist, and the length of the assignment;

6. Ensure that ***[all assigned]* *each* radiologist assistant student*[s]* *assigned to a clinical education center in New Jersey*** perform delegated fluoroscopic procedures, as prescribed below, under the appropriate level of supervision of a radiologist or a radiologist assistant:

i. Only a radiologist can determine whether a student is clinically competent to perform a delegated fluoroscopic procedure.

ii. Subject to (e)6iii below, a student shall perform each delegated fluoroscopic procedure under direct supervision as defined at N.J.A.C. 7:28-19.2 by a supervising radiologist or a radiologist assistant who is under the supervision of a radiologist, in accordance with the requirements of the Board of Medical Examiners at N.J.A.C. 13:35.

iii. If expressly allowed by the rules of the Board of Medical Examiners, N.J.A.C. 13:35, a student who is determined to be clinically competent in a given delegated fluoroscopic procedure may perform that procedure without direct supervision, provided that a supervising radiologist or a radiologist assistant under the supervision of a radiologist is on site and immediately available to furnish assistance and direction throughout the performance of the procedure; and

7. Provide remedial instruction ***to a radiologist assistant student assigned to a New Jersey clinical education center*** for any procedure that is performed by a radiologist assistant student and found to be unacceptable by the supervising radiologist or radiologist assistant. If the student's performance of the procedure is determined to be unacceptable after a student has been determined to be clinically competent, the school shall ensure that the student's performance of the procedure is directly supervised as required pursuant to (e)6ii above until a radiologist determines that the student is clinically competent to perform that procedure. All remedial instruction shall be documented in the student's file.

(f) A clinical education center ***in New Jersey*** that provides clinical education to radiologist assistant students shall comply with (e)2 through 7 above. ***An out-of-State clinical education center that provides clinical education to radiologist assistant students from a New Jersey radiologist assistant school shall comply with the requirements of the state in which it is located.***

(g) In order to maintain Board recognition, a school shall:

1. Comply with this section;

2. Maintain approval by the American Registry of Radiologic Technologist or another accreditation agency recognized by the Board;

3. Inform the Department within 15 calendar days of any change that could adversely affect the school's ability to fulfill its ability to provide students with appropriate didactic and laboratory instruction and clinical assignments, or has altered how the school operates, since its recognition by the Board. Such changes include, but are not limited to, a change in approval status as required in (g)2 above or change of curriculum;

4. Permit one or more Board representatives or Department employees to conduct a site inspection and make available such information, records, or persons that may be needed to determine compliance with the requirements of this section; and

5. Not have more than two consecutive years in which the first-time pass rate is below 75 percent for students taking the American Registry of Radiologic Technologists examination or another certifying board recognized by the Board.

(h) A school that is found not in compliance with (g) above may have its recognition terminated.

(i) A school whose application for recognition is denied, or a Board-recognized school whose recognition has been terminated, may request a hearing as provided at N.J.A.C. 7:28-19.18.

(j) A list of Board-recognized radiologist assistant schools may be obtained from the Bureau of X-ray Compliance website at www.xray.nj.gov.

7:28-19.18 Procedures for requesting and conducting adjudicatory hearings

(a) Subject to the limitation on third-party hearing rights specified at (f) below, an applicant for examination, license, or Board approval for a radiologic technology school or Board recognition for a radiologist assistant school, or any person who believes that he or she is aggrieved by any Board finding as it relates to such an application, may contest the decision and request a contested case hearing. The request shall be made in writing to the Department at the address listed at (e) below within 20 calendar days from receipt of the Board's findings. The person requesting the hearing shall include the following information in each hearing request:

1.-8. (No change.)

(b) Subject to the limitation on third-party hearing rights specified at (f) below, a licensed radiologic technologist or radiologist assistant, applicant for license renewal, or Board-approved school for radiologic technology or Board-recognized radiologist assistant school, or any person who believes that he or she is aggrieved by any Board finding or an administrative order issued pursuant to this subchapter, may contest the

ADOPTIONS

finding or administrative order and request a contested case hearing. The person requesting the hearing shall submit an original request in writing to the Department at the address at (e) below within 20 calendar days after the violator's receipt of the administrative order. The person requesting the hearing shall include the following information in each hearing request:

- 1.-8. (No change.)
- (c)-(f) (No change.)

7:28-19.19 (No change in text.)

SUBCHAPTER 24. NUCLEAR MEDICINE AND FUSION IMAGING COMPUTED TOMOGRAPHY (CT) TECHNOLOGY

7:28-24.11 Fees

(a) Any person who submits a nuclear medicine technology application for an examination, license, or license renewal to the Department shall include as an integral part of the application a service fee as follows:

- 1. Examination application fee: \$160.00;
- 2. Initial license application fee: \$60.00;
- 3. Biennial license renewal fee: \$90.00;
- 4. License reprint fee: \$20.00.

(b) Any person who submits a fusion imaging CT technology application for an examination, license, or license renewal to the Department shall include as an integral part of the application a service fee as follows:

- 1. Examination application fee: \$160.00;
- 2. Initial license application fee: \$60.00;
- 3. Biennial license renewal fee: \$90.00;
- 4. License reprint fee: \$20.00.

(c) (No change)

SUBCHAPTER 61. PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIALS

7:28-61.1 Incorporation by reference

(a) (No change.)

(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.-20. (No change.)
- 21. 10 CFR 71.70, Incorporation by reference; Recodify existing 21.-25. as 22.-26. (No change in text.)
- 27. 10 CFR 71.85(a), (b), and (c);
- 28. 10 CFR 71.91(b); Recodify existing 26.-36. as 29.-39. (No change in text.)

(c) In addition to the changes outlined at 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.-ii. (No change.)
- iii. 10 CFR 71.17(e);
- iv.-viii. (No change.)

2.-12. (No change.)

13. 10 CFR 71.17(c)(3), do not replace the address as otherwise indicated at N.J.A.C. 7:28-1.6 Table 1;

14. 10 CFR 71.85(d), replace "in paragraphs (a) through (c) of this section," with "of paragraphs (a) through (c) of 10 CFR 71.85";

15. 10 CFR 91(c) and (d), delete "certificate holder, and an applicant for a CoC";

16. (No change in text.)

17. 10 CFR 71.101(a), delete "Each certificate holder and applicant for a package approval is responsible for satisfying the quality assurance requirements that apply to design, fabrication, testing, and modification of packaging subject to this subpart.";

ENVIRONMENTAL PROTECTION

18. 10 CFR 71.101(b), delete "certificate holder, and an applicant for a CoC";

Recodify existing 14.-16. as 19.-21. (No change in text.)

22. 10 CFR 71.103(a), delete "certificate holder, and applicant for a Certificate of Compliance" in both instances;

23. 10 CFR 71.135, delete "certificate holder, and applicant for a Certificate of Compliance";

(d)-(e) (No change.)

SUBCHAPTER 64 RADIOACTIVE MATERIALS LICENSE FEES

7:28-64.2 Schedule of fees

(a)-(h) (No change.)

Table 1

Schedule of Source, Special Nuclear, and Byproduct Material Annual Fees

<u>FEE CATEGORY</u>	<u>LICENSE TYPE</u>	<u>ANNUAL FEE (\$)</u>
1. (No change.)		
2.	Source Material	
A. (No change.)		
B.	Licenses that authorize only the possession, use, and/or installation of source material for shielding, or licenses that authorize possession, storage, and use of reference sources containing source material for calibration, proficiency testing, quality assurance, and/or in the manufacturing of exempt devices.	610
C. (No change.)		
3.-15. (No change.)		
16.	Reciprocity Reciprocal recognition of an out-of-State license for a period of less than 180 days.	50 percent of annual fee of applicable category, rounded to the nearest \$5.00.
17.-18. (No change.)		

Table 2

Schedule of Radioactive Materials Annual Fees

<u>FEE CATEGORY</u>	<u>LICENSE TYPE</u>	<u>ANNUAL FEE (\$)</u>
1. (No change.)		
2.	Amendments	
A.-B. (No change.)		
C.	Request to amend a license requiring technical review whether or not a site visit is also required. This includes, but not limited to, a facility move or the addition of a process.	\$415
3.-8. (No change.)		

7:28-64.10 Annual adjustment of fees

(a) Each year the annual fees in Tables 1 and 2 at N.J.A.C. 7:28-64.2 will be adjusted by the previous 12-month inflation factor. The inflation factor is calculated from the Consumer Price Index, all urban consumers, U.S. city average (CPI-U), published monthly by the U.S. Department of

Labor, Bureau of Labor Statistics. The CPI-U for purposes of calculating the inflation factor shall be the CPI-U for the 12-month period ending May 31. The resulting fee will be rounded up or down to the nearest increment of \$5.00.

(b)-(d) (No change.)

HUMAN SERVICES

(a)

DIVISION OF DEVELOPMENTAL DISABILITIES

Notice of Administrative Changes

Contribution to Care and Maintenance Requirements

Notice of Family Maintenance Standard, Medical Cost Standard, Tuition Deduction, and the Cost of Care and Maintenance Rates

N.J.A.C. 10:46D-3.2

Effective Date: May 12, 2020.

Take notice that, in accordance with N.J.A.C. 10:46D-3.2, the Department of Human Services announces that the following family maintenance standard (N.J.A.C. 10:46D-3.2(a)), medical cost standard (N.J.A.C. 10:46D-3.2(a)), tuition deduction standard (N.J.A.C. 10:46D-3.2(a) and (f)), and the cost of care and maintenance rates that shall be utilized in the determination of eligibility and the contribution to care and maintenance of individuals residentially placed by the Division of Developmental Disabilities and their legally responsible relatives for the period beginning January 1, 2020. The approved calendar year 2020 patient payment per diem rate for State developmental centers is \$1,018. The approved calendar year 2020 patient payment per diem rate for residential functional services is \$355.00. These changes are effective January 1, 2020. This notice of administrative changes is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 3. TREASURY FORMULA-DDD

10:46D-3.2 DDD Formula B-DDD(B) for individuals under age 18

(a) This section shall apply to the individual under age 18 being served, LRR(s), or any other person responsible for the estate of such individual and/or LRR(s). The family maintenance standard for a family of four, for calendar year [2019] **2020**, is [\$33,325] **\$33,871**, the medical cost standard for a family of four is [\$8,806] **\$9,224**, and the tuition deduction shall be revised annually, using the Consumer Price Index figures then applicable and the cost for in-State tuition at Rutgers, the State University, ([\$11,886] **\$12,230** for school year [2018-19] **2019-20**). These revisions shall be published annually by the Department as public notices in the New Jersey Register. Additionally, the Department shall publish in the New Jersey Register, the cost of care and maintenance rates as established by the Commissioner.

(b)-(e) (No change.)

(f) The deduction for college tuition shall be the actual college tuition cost paid, but shall not exceed the maximum of the annual in-State tuition expenses for Rutgers University. The deduction shall be the net of any scholarships, awards, or grants, and shall cover tuition paid, but shall not cover such items as room, board, books, and lab fees. The maximum college tuition deduction for school year [2018-2019] **2019-2020** is [\$11,886] **\$12,230**. This shall be revised annually as required by (a) above.

(g)-(j) (No change.)

LAW AND PUBLIC SAFETY

(b)

DIVISION OF CONSUMER AFFAIRS

NEW JERSEY BOARD OF NURSING

Notice of Administrative Correction Educational Requirements for Certification

N.J.A.C. 13:37-7.2

Effective Date: May 7, 2020.

Take notice that the Board of Nursing (Board) has found citation errors in the text of N.J.A.C. 13:37-7.2.

At N.J.A.C. 13:37-7.2, pertaining to education requirements for certification, subsection (c) references "requirements of (a) and (c) above." Effective April 20, 2020, the Board deleted then-existing N.J.A.C. 13:37-7.2(b) and recodified then-existing subsections (c) and (d) as (b) and (c). (see 51 N.J.R. 922(a); 52 N.J.R. 896(a).) As part of the April 20, 2020 rulemaking, the Board inadvertently did not update the cross-reference at subsection (c) to account for the recodifications in this section. The Board is correcting that oversight to change the cross-reference at now-codified subsection (c) to refer to the "requirements of (a) and (b) above."

This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

SUBCHAPTER 7. CERTIFICATION OF ADVANCED PRACTICE NURSES

13:37-7.2 Educational requirements for certification

(a)-(b) (No change.)

(c) In addition to the requirements of (a) and [(c)] **(b)** above, an applicant shall have completed six contact hours in pharmacology related to controlled dangerous substances, including pharmacologic therapy and addiction prevention and management, presented by:

1.-2. (No change.)

OTHER AGENCIES

(c)

FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY

Fort Monmouth Economic Revitalization Authority Rules

Adopted New Rules: N.J.A.C. 19:31C

Proposed: March 2, 2020, at 52 N.J.R. 393(a).

Adopted: May 21, 2020, by the Fort Monmouth Economic Revitalization Authority, Bruce Steadman, Executive Director. Filed: May 21, 2020, as R.2020 d.065, **without change**.

Authority: N.J.S.A. 52:27I-18 et seq., specifically 52:27I-26kk.

Effective Date: June 15, 2020.

Expiration Date: June 15, 2027.

Summary of Public Comment and Agency Response:

No public comments were received.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the expired rules adopted herein as new rules.

Full text of the expired rules adopted herein as new rules can be found in the New Jersey Administrative Code at N.J.A.C. 19:31C.