25. 10 CFR 40 Appendix A, Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for Their Source Material Content.

(c) In addition to the changes outlined in N.J.A.C. 7:28-1.6, the following provisions of 10 CFR Part 40 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 40 of the Code of Federal Regulations that are incorporated by reference, means the Department, except when specifically noted in this subchapter;

2. "Registrant" as used in the provisions of Part 40 of the Code of Federal Regulations that are incorporated by reference, means a "radioactive materials registrant" except when specifically noted;

3. "Source and byproduct material" as used in the provisions of Part 40 of the Code of Federal Regulation that are incorporated by reference, means source material, except when specifically noted in this subchapter;

4. 10 CFR 40.6, 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,";

5. 10 CFR 40.7(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.";

6. 10 CFR 40.7(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.";

7. 10 CFR 40.7(e)(1), replace "part 19" with "N.J.A.C. 7:28-50";

8. 10 CFR 40.9(b), replace "Administrator of the appropriate Regional Office" with "Department";

9. 10 CFR 40.14(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 accordance with the provisions of N.J.A.C. 7:28-2.8";

10. 10 CFR 40.21, delete "or byproduct material";

11. 10 CFR 40.22(b)(3), replace "§§ 40.1 through 40.10" with "§§ 40.1, 40.2, 40.3, 40.4, 40.6 and 40.7, 40.9 and 40.10," and replace "40.41 (a) through (e)" with "40.41(a) through (c) and (e)(2)";

12. 10 CFR 40.25(c)(1), replace "NRC Form 244, "Registration Certificate—Use of Depleted Uranium Under General License" with "forms available from the Department";

13. 10 CFR 40.25(c)(2), replace "Director, Division of Industrial and Medical Nuclear Safety, with a copy to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D of part 20 of this chapter" with "Department";

14. 10 CFR 40.25(d)(4), replace "Director, Division of Industrial and Medical Nuclear Safety, with a copy to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D of part 20 of this chapter" with "Department";

15. 10 CFR 40.25(e), delete "parts 19, 20, and 21, of this chapter" with "part 21 of this chapter and N.J.A.C. 7:28-6 and N.J.A.C. 7:28-50";

16. 10 CFR 40.31(a), replace "NRC Form 313, 'Application for Material License,' in accordance with the instructions in § 40.5 of this chapter" with "forms available from the Department";

17. 10 CFR 40.31(e), replace "§ 170.31" with "N.J.A.C. 7:28-64";

18. 10 CFR 40.25(c)(1), (c)(2), and (d)(3), add "or Department equivalent" after "'Registration Certificate-Use of Depleted Uranium Under General License,'";

19. 10 CFR 40.35(d)(1) and (d)(2), add "or Department equivalent" after "'Registration Certificate-Use of Depleted Uranium Under General License,'";

20. 10 CFR 40.35(e)(1), replace "Director, Office of Nuclear Material Safety and Safeguards" with "Department";

21. 10 CFR 40.31(c), replace "regulations contained in parts 2 and 9 of this chapter" with "the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.)";

22. 10 CFR 40.36(c)(5) replace "20.1402" with "N.J.A.C. 7:28-12.1";

23. 10 CFR 40.36(d)(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";

24. 10 CFR 40.31(e), replace "part 170" with "Subchapter 64" and "§ 170.31" with "Subchapter 64";

25. 10 CFR 40.36(e)(2), replace "part 30" with "Subchapter 51";

26. 10 CFR 40.36(f)(3)(iv), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12" and replace "10 CFR 20.2002" with "N.J.A.C. 7:28-6";

27. 10 CFR 40.41(c), replace "part 71" with "N.J.A.C. 7:28-61";

28. 10 CFR 40.41(f)(1), replace "appropriate NRC Regional Administrator" with "Department";

29. 10 CFR 40.42(j)(2), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12";

30. 10 CFR 40.42(k)(3)(i), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12";

31. 10 CFR 40.42(k)(3)(ii), replace "10 CFR part 20, subpart E" with "N.J.A.C. 7:28-12";

32. 10 CFR 40.43(a), add "or Department equivalent" after "NRC Form 313";

33. 10 CFR 40.44, add "or Department equivalent" after "NRC Form 313";

34. 10 CFR 40.46(b) delete "or Appendix A to this part";

35. 10 CFR 40.51(b)(5) add "or the U.S. Nuclear Regulatory Commission" after "Agreement State";

36. 10 CFR 40.51(c), add "or the U.S. Nuclear Regulatory Commission" after both instances of "Agreement State";

37. 10 CFR 40.60(c)(2), replace "NRC's Document Control Desk" with "Department" and replace "appropriate NRC regional office listed in appendix D to part 20 of this chapter" with "Department"; and

38. 10 CFR 40.82, replace all of 10 CFR 40.82 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.
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 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)11; and in (c)23, updated the first CFR reference.

SUBCHAPTER 59. LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

§ 7:28-59.1 Incorporation by reference

(a) Except as set forth in (b) and (c) below, this subchapter incorporates by reference 10 CFR Part 61, Licensing Requirements for Land Disposal of Radioactive Waste.

(b) The following provisions of 10 CFR Part 61 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 61.4, Communications;

2. 10 CFR 61.8, Information collection requirements: OMB approval;

3. 10 CFR 61.16, Other information;

4. 10 CFR 61.23(i) and (j), Standards for issuance of a license; and

5. 10 CFR 61.83, Violations.

(c) The following provisions of 10 CFR Part 61 are incorporated by reference with the specified changes:

1. "Nuclear Regulatory Commission," "NRC," and "U.S. Nuclear Regulatory Commission," as used in the provisions of Part 61 of the Code of Federal Regulations, that are incorporated by reference, means the Department, except when specifically noted in this subchapter;

2. 10 CFR 61.1(a), replace "part 20 of this chapter" with "N.J.A.C. 7:28-6";

3. 10 CFR 61.1(b), replace "part 150 of this chapter" with "N.J.A.C. 7:28-62";

4. 10 CFR 61.1(b)(2), replace "part 40 of this chapter" with "N.J.A.C. 7:28-58";

5. 10 CFR 61.1(b)(3), replace "part 20 of this chapter" with "N.J.A.C. 7:28-6";

6. 10 CFR 61.5, 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,";

7. 10 CFR 61.6, 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 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;