CHAPTER 28

RADIATION PROTECTION PROGRAMS

Authority

N.J.S.A. 13:1B-1 et seq., 13:1D-1 et seq., and 26:2D-1 et seq.

Source and Effective Date

Effective: May 9, 2013.
See: 45 N.J.R. 1400(a).

Chapter Expiration Date

Chapter 28, Radiation Protection Programs, expires on May 9, 2020.

Chapter Historical Note

Chapter 28, Bureau of Radiation Protection, was filed and became effective prior to September 1, 1969.

Subchapter 19, Excessive Exposure to Ionizing Radiation, was adopted as R.1972 d.102, effective July 17, 1972. See: 4 N.J.R. 4(c).

Subchapter 25, Radiation Laboratory Fee Schedule, was adopted as R.1978 d.47, effective February 8, 1978. See: 9 N.J.R. 560(a), 10 N.J.R. 101(b).

Subchapter 24, Nuclear Medicine Technology, was adopted as R.1978 d.101, effective March 20, 1978. See: 9 N.J.R. 213(b), 10 N.J.R. 146(c).

Subchapter 21, Analytical X-Ray Installations, was adopted as R.1979 d.64, effective May 1, 1979. See: 10 N.J.R. 321(a), 11 N.J.R. 123(a).

Subchapter 41, Mercury Vapor Lamps, was adopted as R.1981 d.464, effective December 7, 1981. See: 13 N.J.R. 9(b), 13 N.J.R. 887(c).

Subchapter 1, General Provisions, and Subchapter 2, Use of Sources of Radiation and Special Exemptions, were repealed and Subchapter 1, General Provisions, and Subchapter 2, Use of Sources of Ionizing Radiation and Special Exemptions, were adopted as new rules by R.1983 d.592, effective December 19, 1983. See: 15 N.J.R. 391(a), 15 N.J.R. 2160(a).

Subchapter 42, Radio Frequency Radiation, was adopted as R.1984 d.337, effective August 6, 1984. See: 16 N.J.R. 7(a), 16 N.J.R. 2120(a).

Pursuant to Executive Order No. 66(1978), Subchapter 21, Analytical X-Ray Installations, was readopted as R.1984 d.353, effective August 6, 1984. See: 16 N.J.R. 1310(a), 16 N.J.R. 2276(a).

Subchapter 19, Medical Exposure to Ionizing Radiation by Radiologic Technologists, was adopted as R.1984 d.349, effective August 20, 1984. See: 16 N.J.R. 797(a), 16 N.J.R. 2271(a).

Pursuant to Executive Order No. 66(1978), Subchapter 24, Nuclear Medicine Technology, expired February 14, 1985.

Subchapter 24, Nuclear Medicine Technology, was adopted as new rules by R.1985 d.140, effective March 18, 1985. See: 17 N.J.R. 22(a), 17 N.J.R. 699(a).

Pursuant to Executive Order No. 66(1978), Subchapter 12, Transportation, was readopted as R.1985 d.387, effective August 5, 1985. See: 17 N.J.R. 1369(a), 17 N.J.R. 1884(a).

Subchapter 14, Therapeutic Installations, was repealed and Subchapter 14, Therapeutic Installations, was adopted as new rules by R.1987 d.258, effective July 6, 1987. See: 18 N.J.R. 1157(a), 19 N.J.R. 1196(c).

Subchapter 3, Registration: Radiation Protection Fee Schedule, was repealed and Subchapter 3, Registration of Ionizing Radiation-Producing Machines and Radioactive Materials, was adopted as new rules by R.1987 d.485, effective November 16, 1987. See: 19 N.J.R. 836(a), 19 N.J.R. 2167(a).

Subchapter 4, Licensing, was repealed and Subchapter 4, Licensing of Naturally Occurring and Accelerator Produced Radioactive Materials, was adopted as new rules by R.1987 d.483, effective November 16, 1987. See: 19 N.J.R. 1041(a), 19 N.J.R. 2171(a).

Subchapter 5, Controlled Areas, was repealed and Subchapter 5, Controlled Areas, was adopted as new rules by R.1987 d.484, effective November 16, 1987. See: 19 N.J.R. 839(a), 19 N.J.R. 2180(a).

Subchapter 25, Radiation Laboratory Fee Schedule, was repealed and Subchapter 25, Radiation Laboratory Fee Schedule, was adopted as new rules by R.1989 d.349, effective July 3, 1989. See: 21 N.J.R. 826(a), 21 N.J.R. 1904(a).

Pursuant to Executive Order No. 66(1978), Chapter 28, Bureau of Radiation Protection, was readopted as R.1990 d.427, effective July 30, 1990. See: 22 N.J.R. 890(a), 22 N.J.R. 2570(a).

Subchapter 16, Dental Radiographic Installations, was adopted as R.1990 d.538, effective November 5, 1990. See: 22 N.J.R. 894(a), 22 N.J.R. 3367(a).

Subchapter 27, Certification of Radon Testers and Mitigators, was adopted as R.1990 d.559, effective November 19, 1990 (operative January 13, 1991). See: 21 N.J.R. 3369(a), 22 N.J.R. 3516(a).

Subchapter 20, Particle Accelerators for Industrial and Research Use, was adopted as R.1992 d.52, effective February 3, 1992. See: 23 N.J.R. 1401(c), 24 N.J.R. 416(a).

Subchapter 15, Medical Diagnostic X-Ray Installations, was repealed and Subchapter 15, Medical Diagnostic X-Ray Installations, was adopted as new rules by R.1993 d.510, effective October 18, 1993. See: 25 N.J.R. 7(a), 25 N.J.R. 1039(a), 25 N.J.R. 4770(a), 25 N.J.R. 5148(a).

Subchapter 48, Fees for the Registration of Nonionizing Radiation Producing Sources, was adopted as R.1995 d.6, effective January 3, 1995. See: 25 N.J.R. 5422(a), 26 N.J.R. 793(b), 27 N.J.R. 99(a).

Pursuant to Executive Order No. 66(1978), Chapter 28, Bureau of Radiation Protection, was readopted as R.1995 d.457, effective July 28, 1995, and Subchapter 12, Transportation, was repealed by R.1995 d.457, effective August 21, 1995. See: 26 N.J.R. 4942(a), 27 N.J.R. 3157(b).

Pursuant to Executive Order No. 66(1978), Chapter 28, Bureau of Radiation Protection, was readopted as R.2000 d.120, effective February 25, 2000. As a part of R.2000 d.120, Chapter 28, Bureau of Radiation Protection, was renamed Radiation Protection Programs; and Subchapter 25, Radiation Laboratory Fee Schedule, was repealed, effective March 20, 2000. See: 31 N.J.R. 3007(a), 32 N.J.R. 1016(a).

Subchapter 24, Nuclear Medicine Technology, was repealed and Subchapter 24, Nuclear Medicine Technology, was adopted as new rules by R.2000 d.171, effective April 17, 2000. See: 31 N.J.R. 3012(a), 32 N.J.R. 1388(a).

Subchapter 12, Remediation Standards for Radioactive Materials, was adopted as R.2000 d.314, effective August 7, 2000. See: 31 N.J.R. 1723(a), 32 N.J.R. 2866(a).

Subchapter 22, Quality Assurance Programs for Medical Diagnostic X-ray Installations, was adopted as R.2001 d.37, effective January 16, 2001. See: 32 N.J.R. 1459(a), 33 N.J.R. 292(b).

Chapter 28, Radiation Protection Programs, was readopted as R.2005 d.239, effective June 21, 2005. See: 37 N.J.R. 8(a), 37 N.J.R. 2675(b).

Subchapter 19, Medical Exposure to Ionizing Radiation by Radiologic Technologists, was repealed and Subchapter 19, Radiologic Technology, was adopted as new rules by R.2008 d.234, effective August 18, 2008. See: 39 N.J.R. 4024(a), 40 N.J.R. 4790(b).

Chapter 28, Radiation Protection Programs, was amended by R.2008 d.281, effective September 15, 2008, operative upon publication of notice in the New Jersey Register by the Department of Environmental Protection that the U.S. Nuclear Regulatory Commission and the State of New Jersey have entered into an Agreement for the State to regulate source, certain special nuclear, and by-product material. See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b).

Subchapter 3, Registration of Ionizing Radiation-Producing Machines and Radioactive Materials, was renamed Registration of Ionizing Radiation-Producing Machines; Subchapter 4, Licensing of Naturally

Occurring or Accelerator Produced Radioactive Materials, was renamed Licensing of Diffuse Naturally Occurring or Diffuse Accelerator Produced Radioactive Materials; Subchapter 5, Controlled Areas, was renamed Controlled Areas for Registrants; Subchapter 6, Dose Limits, was repealed and Subchapter 6, Standards For Protection Against Radiation, was adopted as new rules; Subchapter 7, Radiation Surveys and Personnel Monitoring, was renamed Radiation Surveys and Personnel Monitoring for Registrants; Subchapter 8, Records, was renamed Records for Registrants; Subchapter 9, Radioactive Contamination Control, was repealed; Subchapter 10, Labeling, Posting, and Controls, was renamed Labeling, Posting, and Controls for Registrants; Subchapter 11, Disposal of Radioactive Materials, was repealed; Subchapter 13, Reports of Thefts and Radiation Incidents, was renamed Reports of Thefts and Radiation Incidents for Registrants; Subchapter 17, Industrial and Nonmedical Radiography, was renamed Industrial and Nonmedical X-Ray Radiography; and Subchapter 50, Notices, Instructions and Reports To Workers: Inspection and Investigations, Subchapter 51, Rules of General Applicability to Domestic Licensing of Byproduct Material, Subchapter 52, General Domestic Licenses for Byproduct Material, Subchapter 53, Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material, Subchapter 54, Specific Domestic Licenses of Broad Scope for Byproduct Material, Subchapter 55, Medical Use of Byproduct Material, Subchapter 56, Licenses and Radiation Safety Requirements for Irradiators, Subchapter 57, Licenses and Radiation Safety Requirements for Well Logging, Subchapter 58, Domestic Licensing of Source Material, Subchapter 59, Licensing Requirements for Land Disposal of Radioactive Waste, Subchapter 60, Domestic Licensing of Special Nuclear Material, Subchapter 61, Packaging and Transportation of Radioactive Material, Subchapter 62, Exemptions and Continued NRC Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 (42 U.S.C. §2021), Subchapter 63, Licenses For Industrial Radiography Using Sealed Sources and Radiation Safety Requirements For Such Industrial Radiographic Operations, and Subchapter 64, Radioactive Materials License Fees were adopted as new rules, by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009). See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 28, Radiation Protection Programs, was extended by gubernatorial directive from June 21, 2010 to June 21, 2011. See: 42 N.J.R. 468(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 28, Radiation Protection Programs, was scheduled to expire on June 21, 2013. See: 43 N.J.R. 1203(a).

Chapter 28, Radiation Protection Programs, was readopted, effective May 9, 2013. See: Source and Effective Date.

Subchapter 62, Exemptions and Continued NRC Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 (42 U.S.C. §2021), was renamed Reciprocity by R.2014 d.083, effective May 5, 2014. See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

7:28-1.1 Purpose and scope

(a) The purpose of this chapter is to prohibit and prevent the use or presence of unnecessary radiation in such manner as to be, or tend to be, injurious or dangerous to the health of the people or the industrial or agriculture potentials of the State, or to the ecology of the State and its wildlife.

(b) This chapter applies to all persons and persons licensed or registered by the Department to receive, possess, use, transfer, install, handle, transport, store, or dispose of ionizing radiation producing machines, non-ionizing radiation producing sources, diffuse technologically enhanced naturally occurring radioactive materials, diffuse accelerator-produced radioactive materials, by-product, source, or certain special nuclear material or to operate a production or utilization facility under N.J.A.C. 7:28-51 through 60. The limits in this chapter do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, to exposure from individuals administered radioactive material and released under N.J.A.C. 7:28-55.1, or to exposure from voluntary participation in medical research programs.

(c) The rules in this chapter establish standards for protection against ionizing radiation resulting from activities conducted under registrations or licenses issued by the Department.

(d) It is the purpose of the rules in this chapter to control the receipt, possession, use, transfer, and disposal of licensed material, ionizing radiation producing machines, or non-ionizing radiation producing sources by any licensee or registrant in such a manner that the total dose or exposure to an individual (including doses resulting from licensed and unlicensed radioactive material and from radiation sources other than background radiation) does not exceed the standards for protection against radiation prescribed in the rules in this chapter. However, nothing in this chapter shall be construed as limiting actions that may be necessary to protect health and safety.

Amended by R.2000 d.120, effective March 20, 2000.
See: 31 N.J.R. 3007(a), 32 N.J.R. 1016(a).
In (b), substituted a reference to the Radiation Protection Programs for a reference to the Bureau of Radiation Protection.
Amended by R.2005 d.239, effective July 18, 2005.
See: 37 N.J.R. 8(a), 37 N.J.R. 2675(a).
Deleted a reference to Radiation Protection Programs.
Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Rewrote (b); and added (c) and (d).

7:28-1.2 Construction

These rules shall be liberally construed to permit the Department and its various agencies to discharge their statutory functions.

Amended by R.2000 d.120, effective March 20, 2000.
See: 31 N.J.R. 3007(a), 32 N.J.R. 1016(a).
Substituted a reference to the Radiation Protection Programs for a reference to the Bureau of Radiation Protection.
Amended by R.2005 d.239, effective July 18, 2005.
See: 37 N.J.R. 8(a), 37 N.J.R. 2675(a).
Deleted a reference to Radiation Protection Programs.

7:28-1.3 Practice where rules do not govern

The Commission may rescind, amend or expand these rules from time to time, in accordance with N.J.S.A. 26:2D-7, Chapter 116, Public Laws of 1958, as amended.

7:28-1.4 Definitions

(a) The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional words and terms applicable to the chapter, incorporated from 10 CFR 20, are located at N.J.A.C. 7:28-6. Additional words and terms applicable to a specific subchapter only, will be found in that subchapter.

1. General Terms:

"Act" means the New Jersey Radiation Protection Act, Chapter 116, Public Laws of New Jersey 1958, as amended, cited as N.J.S.A. 26:2D-1 et seq.

"Agreement state" means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b of the Atomic Energy Act of 1954, as amended.

"Annually" means occurring once per year at intervals of not less than 51 consecutive weeks nor more than 53 consecutive weeks.

"Area" means a bounded space such as a room, floor, building, plant or any designated geographical entity having physical or imaginary boundaries.

"Average dose rate" means an integrated or accumulated dose of radiation divided by the time over which the integration or accumulation took place or by a specified length of time.

"Commission" means the New Jersey Commission on Radiation Protection.

"Dead-man switch" means a switch which can be kept closed only when the operator applies continuous pressure.

"Department" means the New Jersey Department of Environmental Protection.

"Dose rate" means dose per unit time.

"Emergency exposure" means an exposure to radiation of an emergency worker during rescue or other emergency operations.

"Emergency worker" means a member of the owner's staff or of a public voluntary or governmental agency engaged in safety or other emergency operations.

"Exemption" means the administrative relief from the requirements of a substantive rule.

"Healing art" means the practice of any branch of medicine or surgery, any method of diagnosis of human ailment, disease, pain, injury, deformity, mental or physical condition.

"Inspection" means an official examination or observation including but not limited to tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the Department.

"Installation" means a radiation source, with its associated equipment, and the area in which it is housed.

"Instructed individual" means an individual who has received appropriate instructions as to the safe means and methods of performing work with or near radiation sources.

"Ionizing radiation" means any form of radiation which has the capability of ionizing the medium through which it is passing.

"Maximum permissible dose" means the maximum dose to which the body or a particular part of the body of a person shall be permitted to be exposed continuously or intermittently in a stated period of time.

"Nonionizing radiation" means any form of radiation which does not have the capability of ionizing the medium through which it is passing.

"Owner" means a person who has title to a radiation source or who possesses a radiation source as a lessee, bailee or pursuant to the terms of a license issued by the Department, by a Federal agency, or by any other state.

"Personnel-monitoring equipment" means devices designed to be worn or carried by an individual for the purpose of measuring the dose received; for example, film badges, pocket chambers, pocket dosimeters, and thermoluminescent dosimeters.

"Qualified individual" means an individual suited by training and experience to perform dependable radiation surveys and to determine the degree of radiation hazard.

"Radiation" includes any or all of the following: electromagnetic radiation including radiofrequency, microwave, infrared, visible, ultraviolet, x-ray, or gamma ray; sonic, infrasonic, or ultrasonic waves; and particle radiation including alphas, betas, high energy electrons, neutrons, protons, and other atomic or nuclear particles.

"Research and development" means theoretical analysis, exploration, or experimentation; or the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental production and testing of models, devices, equipment, materials and processes. "Research and development" does not include the internal or external administration of radioactive material, or of radiation, to human beings.

"Semi-annually" means occurring twice per year at intervals of not less than 25 consecutive weeks nor more than 27 consecutive weeks.

"Shielding" means any material introduced into the path of radiation to reduce the radiation level.

"Source of radiation" means a material, equipment or machine emitting or capable of emitting radiation.

"State" means the State of New Jersey.

"Unnecessary radiation" means the use of nonionizing or ionizing radiation in such a manner as to be, or tend to be, injurious or dangerous to the health of the people or the industrial or agricultural potentials of the State, as defined in the Radiation Protection Act.

"User" means any individual who personally utilizes or manipulates a source of radiation.

2. Ionizing radiation terms:

"Beam-monitoring device" means a device in the useful beam to indicate the relative output of a radiation-producing machine.

"Contamination" means radioactive contamination.

"Diagnostic-type protective tube housing" means x-ray tube housing so constructed that the leakage radiation at a distance of one meter from the target cannot exceed 100 milliroentgen in one hour when the tube is operated at any of its specified ratings.

"Diffuse" means a radionuclide that has become concentrated, but not for the purpose of use in commercial, medical, or research activities.

"Domestic sewage" means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

"Domestic treatment works" or "DTW" means all publicly owned treatment works as well as any other treatment works processing primarily domestic sewage and pollutants together with any ground water, surface water, storm water or process wastewater that may be present.

"Human use" means the deliberate internal and external administration of radiation or radioactive material to human beings.

"Ionizing radiation-producing machine" means a machine or device capable of generating radiation, such as x-ray producing machines, particle accelerators, high-voltage rectifiers,

high-voltage projection equipment, electron microscopes and other types of high-voltage machines.

"Leakage radiation" means all radiation coming from within an ionizing radiation-producing machine except the useful beam.

"NARM" means any naturally occurring or accelerator produced radioactive material.

"NORM" means any naturally occurring radioactive material.

"Protective barrier" means a barrier of radiation-absorbing material used to reduce radiation exposure. The types of protective barriers are as follows:

1. "Primary protective barrier" means the material, excluding filters, intercepting the useful beam for protection purposes to reduce the radiation exposure so that it does not exceed two millirems per hour;

2. "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to reduce radiation exposure so that it does not exceed two millirems per hour.

"Radioactive material" means a natural or artificially produced substance, solid, liquid or gas which emits ionizing radiation spontaneously.

"Radioactive materials registrant" means a person who is required to register radioactive byproduct material, source material or special nuclear material with the Department pursuant to this chapter.

"Radiographer" means any individual who is in attendance at a site where ionizing radiation-producing machines are being used and who uses or supervises their use in industrial radiographic operations and who is responsible to the owner for assuring compliance with the requirements of this chapter.

"Radiographer's assistant" means any individual who, under the personal supervision of a radiographer, uses ionizing radiation-producing machines, related handling tools, or survey instruments in industrial radiography.

"Radiography" means the examination of humans or animals, or of the structure of materials by non-destructive methods, utilizing ionizing radiation-producing machines. This term is not intended to apply to techniques such as electron microscopy or x-ray diffraction.

"Registrant" means a person who is required to register an ionizing radiation-producing machine source of radiation with the Department pursuant to this chapter.

"Roentgen" means the quantity of x or gamma radiation such that the associated corpuscular emission per .001293 grams of air produces, in air, ions carrying one electrostatic unit of quantity of electricity of either sign.

"Secondary protective barrier" means a barrier intended to attenuate ionizing radiation (other than the useful beam) to the required degree.

"Sewage sludge" means the solid, semi-solid, or liquid residue generated by the processes of a domestic treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and any material derived from sewage sludge.

"Shielded position" means the location within the radiographic-exposure device or storage container which by manufacturer's design, is the proper location for storage of the sealed source.

"Storage container" means a device in which radioactive materials or sources are transported or stored.

"Technologically enhanced naturally occurring radioactive materials" or "TENORM" means any naturally occurring radioactive materials whose radionuclide concentrations or potential for human exposure have been increased by any human activities.

"Total filtration" means the filtration produced by all materials inserted in the useful beam including the materials comprising the tube and its housing, any measured devices in the beam which act as a filter, and any material purposely placed in the beam as filters.

"Useful beam" means that part of the radiation beam which passes through the window, aperture cone or other collimating device of the tube housing.

"Water treatment facility" means an entity that applies a treatment device to drinking water for the purpose of reducing contaminants. The entity may be a community water system or non-community water system as defined by the EPA in 40 CFR 141.

"X-ray tube" means an electron tube which is designed for the conversion of electrical energy into x-ray energy.

3. Non-ionizing radiation terms:

"Electric field strength" means a field vector quantity that represents the force on an infinitesimal unit positive test charge at a point divided by that charge. The electric field strength is expressed in units of volts per meter (V/m).

"Far field" means a region associated with a radiating source or structure in which the field per unit solid angle is constant. In this region, the field has a predominantly plane wave character, that is, locally very uniform distributions of electric field strength and magnetic field strength in planes perpendicular to the direction of propagation. Generally, the far field region begins several wavelengths distant from the source.

"Fixed radio frequency device" means a device operating at a specific location for a period of 30 days or more.

"Magnetic field strength" means a field vector that is equal to the product of the magnetic flux density and the reciprocal of the permeability. Magnetic field strength is expressed in units of amperes per meter (A/m).

"Microwave oven" means an oven which is designed to heat, cook or dry food through the applications of radio frequency electromagnetic energy, and which is designed to operate at a frequency of 916 MHz or 2.45 GHz.

"Near field" means a region near a radiating source or structure in which the electric and magnetic fields do not have a substantially plane wave character, but vary considerably from point to point. The extent of the near field is only vaguely defined and depends on several factors the most important of which is the size of the radiating structure with respect to the wavelength of the emitted electromagnetic energy. In general, this distance extends to at least five wavelengths from the radiating device.

"Power density" means the rate of energy transported into a small sphere divided by the cross-sectional area of that sphere. Power density is expressed in units of watts per meter squared (W/m^2), or for convenience milliwatts per centimeter squared (mW/cm^2).

"Power density, plane wave equivalent" means a quantity that is associated with any electromagnetic wave that is equal in magnitude to the power density of a plane wave that has the same electric or magnetic field strength.

"Radiating device" means the antenna, leakage port, or any other part of a device that emits radio frequency electromagnetic energy.

"Radio frequency" means the frequency range of 300 kilohertz (kHz) to 100 gigahertz (GHz).

"Radio frequency device" means any stationary device, machine, equipment or installation which is capable of generating a radio frequency electromagnetic field. This does not include devices which are marketed as consumer products, including, but not limited to citizens band radios, remote controlled toys, remote controlled garage door openers, mobile radio transmitter under authorization of the Federal Communications Commission or any other device specifically exempted by the Commission on Radiation Protection as not presenting a potential hazard or harm to a worker or the public.

"Radio frequency protection guide (RFPG)" means the mean squared electric field strength, the mean squared magnetic field strength, and the equivalent plane wave power density which shall not be exceeded. The RFPG is an upper limit of exposure. Exposure to levels slightly in excess of the RFPG is not harmful, however, such exposure is not desirable. In all cases the exposure shall be reduced to values that are as low as reasonably achievable.

"Specific absorption rate (SAR)" means the time derivative of the incremental energy (dW) absorbed by (dissipated in) an incremental mass (dm) contained in a volume element (dV) of a given density (ρ).

$$SAR = \frac{ddW}{dt\,dm} \qquad \frac{ddW}{dt\rho dV}$$

The specific absorption rate is expressed in units of watts per kilogram (W/kg). In view of the proliferation of terms for describing the electromagnetic radiation conditions in biological materials and the discipline oriented interpretation of these terms, it is recommended that the name "specific absorption rate" be used for the quantity defined here, rather than such a name as "absorbed power density per unit mass".

Amended by R.1984 d.337, effective August 6, 1984.
See: 16 N.J.R. 7(a), 16 N.J.R. 2120(a).
"Fixed radio frequency device" added.
Amended by R.1985 d.502, effective October 7, 1985.
See: 17 N.J.R. 1626(a), 17 N.J.R. 2389(a).
Added definitions "shielded position" and "x-ray tube" in (b).
Amended by R.1992 d.52, effective February 3, 1992.
See: 23 N.J.R. 1401(c), 24 N.J.R. 416(a).
Added definitions "registrant" and "protective barrier"; deleted old definitions for "primary and secondary barriers" and replaced with new definitions.
Administrative Correction.
See: 25 N.J.R. 5665(a).
Amended by R.2005 d.156, effective May 16, 2005.
See: 36 N.J.R. 2336(a), 37 N.J.R. 1826(a).
Rewrote the section.
Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Added new designation (a) to the introductory paragraph; rewrote the introductory paragraph of (a); recodified former (a) as (a)1; in (a)1, deleted definitions "Absorbed dose", "ALARA", "Background radiation", "Calendar quarter", "Controlled area", "Dose equivalent", "Occupational dose", "Person", "Radiation area", "State license", "State licensee" and "Survey", and added definitions "Annually" and "Semi-annually"; recodified former (b) as (a)2; in (a)2, deleted definitions "Adult", "Airborne-radioactivity area", "Byproduct material", "Collective dose", "Committed dose equivalent", "Committed effective dose equivalent", "Curie", "Declared pregnant woman", "Deep-dose equivalent", "Dose or radiation dose", "Effective dose equivalent", "High radiation area", "License", "Licensee", "Medical radiographer", "Member of the public", "Minor", "Monitoring", "Public dose", "Rad", "Radiographic-exposure device", "Reference man", "Rem", "Residual", "Sanitary sewer system", "Sealed source", "Source material", "Special nuclear material in quantities not sufficient to form a critical mass", "Stochastic effects", "Total effective dose equivalent", "Unrefined and unprocessed ore", "Unrestricted area", "Very high radiation area", and "Weighting factor", and added definitions "Diffuse", "Domestic sewage", "Domestic treatment works" and "Sewage sludge", and in definition "Radioactive materials registrant", substituted "byproduct" for "by-product", in definition "Radiographer", substituted "radiation-producing machines" for "radiation sources", in definition "Radiographer's assistant", deleted "sources of ionizing radiation including" following "uses" and "radiographic-exposure devices, sealed sources or" following "machines,", in definition "Radiography", deleted "sealed sources or" following "utilizing", and in definition "Registrant", substituted "an ionizing radiation-producing" for "a"; and recodified former (c) as (a)3.

7:28-1.5 Communications

(a) Communications concerning this chapter, or matters relating to radiation protection, may be addressed to the New Jersey Department of Environmental Protection, Radiation Protection and Release Prevention, Mail Code 25-01, PO Box 420, Trenton, New Jersey 08625-0420. Telephone: (609) 984-5636, Fax: (609) 633-2210. The physical location of the office is 25 Arctic Parkway, Ewing, New Jersey 08638. Applications and forms may be obtained from the website at http://www.state.nj.us/dep/rpp/index.htm.

(b) All emergency notification of incidents involving sources of radiation in this State shall be immediately reported to either one of the following agencies:

1. Radiation Protection and Release Prevention Element
   New Jersey Department of Environmental Protection
   25 Arctic Parkway
   Ewing, NJ 08638
   Telephone: (609) 984-5462
   Hours: 8:00 A.M. to 5:00 P.M. daily, except Saturday, Sunday, and Holidays
   After hours and weekends toll free: 1 (877) 927-6337 (1 (877) WARN-DEP)

2. Communications Officer
   New Jersey State Police Office of Emergency Management
   West Trenton, NJ 08628
   Telephone: 609-882-2000
   Hours: 24 hours, seven days.

Amended by R.2000 d.120, effective March 20, 2000.
See: 31 N.J.R. 3007(a), 32 N.J.R. 1016(a).
Rewrote the section.
Amended by R.2005 d.239, effective July 18, 2005.
See: 37 N.J.R. 8(a), 37 N.J.R. 2675(a).
Rewrote the section.
Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
In (a), inserted ", Telephone: (609) 984-5636, Fax: (609) 633-2210" and inserted the last sentence; and in the last paragraph of (b)1, deleted ": (609) 292-7172 or" following "weekends".
Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
In (a), substituted ", Mail code 25-01," for "Element,", "420" for "415", and "0420" for "0415".

SUBCHAPTER 2. USE OF SOURCES OF IONIZING RADIATION AND SPECIAL EXEMPTIONS

7:28-2.1 Authorized use of sources of ionizing radiation

(a) No person shall manufacture, use, operate, receive, possess, dispose, transfer, distribute or arrange for the distribution, sell, lease, install, transport or store sources of ionizing radiation in a manner other than prescribed in this chapter.

(b) No person shall cause, suffer, allow or permit any person to manufacture, use, operate, receive, possess, dispose, transfer, distribute or arrange for the distribution, sell, lease, install, transport or store sources of ionizing radiation in a manner other than prescribed in this chapter.

Amended by R.2005 d.156, effective May 16, 2005.
See: 36 N.J.R. 2336(a), 37 N.J.R. 1826(a).
Inserted references to manufacture, distribution, sales, and leasing of sources of ionizing radiation throughout.

7:28-2.2 Supervision

(a) All sources of radiation, except those specifically exempted by other sections of this chapter, shall be under the supervision of at least one person who has demonstrated to the Department, or to any agency recognized by the Department, that the person's training and experience satisfies the Department requirements in the following areas of radiation protection:

1. Principles and practices of radiation protection;

2. X-ray and/or radioactivity measurements and monitoring techniques and instruments;

3. Mathematics and calculations basic to the use of radiation;

4. Biological effects of radiation; and

5. Any additional information, qualifications or experience as may be required by the Department.

(b) Any person applying to the Department for a State license, registration or certificate pursuant to this chapter, shall include in his application the name of at least one person who has satisfied the requirements of (a) above.

Amended by R.2005 d.156, effective May 16, 2005.
See: 36 N.J.R. 2336(a), 37 N.J.R. 1826(a).

7:28-2.3 Instruction

(a) All persons working in or frequenting the vicinity of radiation-producing machines or radioactive material shall be instructed in the operation and/or use of the sources of radiation and the function and need of any applicable safeguards for the sources of radiation, in accordance with preestablished procedures that have been documented and are on file for review and inspection.

(b) All visitors to controlled areas shall be instructed or escorted to prevent unnecessary exposure to radiation. See N.J.A.C. 7:28-6.1 (Standards for protection against radiation) and 7:28-7.4(a)4 (Use of personnel monitoring equipment for visitors).

Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
In (b), inserted "7:28-6.1 (Standards for protection against radiation) and".

7:28-2.4 Unattended radiation sources

No person shall cause, suffer, allow or permit any source of radiation to remain unattended and accessible to unauthorized use.

7:28-2.5 Protective devices, systems or mechanisms

(a) No person shall operate a radiation-producing machine or utilize radioactive material whenever shielding for the source of radiation permits levels of radiation that exceed or have the potential to exceed the radiation limits specified in N.J.A.C. 7:28-6.1 (Standards for protection against radiation).

(b) No person shall operate a radiation-producing machine or utilize radioactive material whenever any device, system or mechanism designed for the protection against radiation required by this chapter has not been installed or is operating improperly.

(c) No person shall operate a radiation-producing machine or utilize a radioactive material whenever any device, system, or mechanism designed for the protection against radiation provided at the time of manufacture, installation, or retrofitted to the equipment is not operating properly.

Amended by R.2005 d.239, effective July 18, 2005.
See: 37 N.J.R. 8(a), 37 N.J.R. 2675(a).
Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
In (a), substituted "6.1 (Standards for protection against radiation)" for "6.2 (Radiation levels outside controlled areas)"; and added (c).

7:28-2.6 Intentional human irradiation

(a) Only persons licensed or otherwise permitted by law shall arrange for irradiation, application or administration of radiation to a human being or any part thereof, for the purpose of medical diagnosis or treatment.

(b) No provision in N.J.A.C. 7:28 regarding the treatment of human beings in the healing arts is intended to conflict with, supplant or supersede any requirement of the Medical Practices Act of New Jersey.

7:28-2.7 Exemptions for prevention or control of diseases

Rules contained in N.J.A.C. 7:28-6 or 7 and 7:28-13.2 (Reportable radiation incidents) shall not apply insofar as they relate to the intentional exposure of human beings to radiation for the purpose of diagnosis, treatment or investigation for the prevention or control of disease.

7:28-2.8 Special exemptions

The Department, upon application and a showing of hardship or compelling need, with the approval of the Commission, may grant an exemption from any requirement of these rules should it determine that such exemption will not result in any exposure to radiation in excess of the limits permitted by N.J.A.C. 7:28-6, Standards for Protection Against Radiation, or 7:28-12, Remediation Standards for Radioactive Materials.

Amended by R.2005 d.156, effective May 16, 2005.
See: 36 N.J.R. 2336(a), 37 N.J.R. 1826(a).
Substituted ", Dose Limits" for "Permissible Dose Rates, Radiation Levels and Concentrations" following the N.J.A.C. reference.
Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Substituted "Standards for Protection Against Radiation" for "Dose Limits".
Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
Inserted ", or 7:28-12, Remediation Standards for Radioactive Materials".

7:28-2.9 Prohibited use

(a) Hand-held fluoroscopic screens shall not be used.

(b) Shoe-fitting fluoroscopic devices shall not be used.

7:28-2.10 Emergency precautions

(a) All owners of radioactive materials shall make a study of potential radiation hazards which may arise from radiation incidents, theft of radioactive materials, fires, floods, windstorms and other disasters within and near the installation with regard to the protection of the following:

1. Tenants and employees;
2. Emergency workers;
3. General public; and
4. Fire fighters and police.

(b) Such studies shall be made for radioactive materials on hand and shall be made in advance of the receipt of additional radioactive materials.

(c) An emergency operational plan, prepared from these studies, shall inform all persons concerned of their duties and responsibilities. This plan shall be made available to the Department on request.

7:28-2.11 Inspections

(a) All persons shall afford the Department an opportunity to inspect any source of radiation and the operation associated with the source of radiation as well as the facilities and premises where the source of radiation is being used or stored.

(b) Upon request of the Department all persons shall make available for inspection by the Department records kept pursuant to the rules in N.J.A.C. 7:28.

7:28-2.12 Tests

Upon request of the Department, all persons shall perform, and/or permit the Department to perform if it so desires, such

tests as the Department deems appropriate or necessary for the administration of this chapter.

7:28-2.13 Violations

(a) The Department may obtain an injunction or other court order to prevent a violation of the provisions of:

1. The Act; or

2. A regulation or order issued pursuant to the Act.

(b) The Department may impose a civil penalty for a violation of:

1. Any provision of this chapter or order issued hereunder;

2. Any term, condition, or limitation of a license issued under this chapter; or

3. A revocation under N.J.A.C. 7:28-4.16, 51 through 60, or 63.

(c) The Department shall not approve an amendment request to terminate a license or release a facility for unrestricted use in accordance with N.J.A.C. 7:28-12 until the licensee has satisfied all outstanding civil penalties imposed in accordance with this chapter.

New Rule, R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
In (b)3, updated the first N.J.A.C. reference; and added (c).

SUBCHAPTER 3. REGISTRATION OF IONIZING RADIATION-PRODUCING MACHINES

7:28-3.1 Registration for possession of ionizing radiation-producing machines

(a) Any person, manufacturer, dealer or State, county or local government shall register with the Department every ionizing radiation-producing machine possessed within the State of New Jersey except as exempted by N.J.A.C. 7:28-3.2.

(b) Any person, manufacturer, dealer or State, county or local government shall apply for such registration within 30 days after taking possession, custody or control of ionizing radiation-producing machines on forms available from the Department.

(c) Any person, manufacturer, dealer or State, county or local government shall retain a copy of the registration at the facility for inspection by employees and the Department.

Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Section was "Registration for possession of ionizing radiation-producing machines and radioactive by-product material, source material and special nuclear material". In (a), deleted "all radioactive by-product material, source material, special nuclear material and" following "Department"; and in (b), deleted "radioactive by-product material, source material, special nuclear material and" preceding "ionizing".

7:28-3.2 Exemptions from registration for possession of ionizing radiation-producing machines

(a) Ionizing radiation-producing machines not being used in such a manner as to produce radiation, such as equipment in storage or on display, are exempt from registration. Machines that are operated while on display must meet the requirements of N.J.A.C. 7:28-3.1.

(b) Electrical equipment that is not primarily intended to produce radiation and that does not produce radiation greater than 0.5 millirem per hour at any readily accessible point five centimeters from its surface is exempt from registration. Production-testing facilities for such equipment shall not be exempt if any individual might receive a radiation dose exceeding the limits established in N.J.A.C. 7:28-6.1.

(c) Ionizing radiation-producing machines possessed, stored or used by agencies of the United States Government are exempt from registration.

Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Section was "Exemptions from registration for possession of ionizing radiation-producing machines and radioactive by-product material, source material and special nuclear material". Deleted (d) through (f).
Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
In (b), updated the N.J.A.C. reference.

7:28-3.3 Registration of ionizing radiation-producing machines

(a) Registration of ionizing radiation-producing machines shall pertain to each x-ray tube and its accompanying transformer, generator and control panel. If more than one x-ray tube operates off the same control panel, a separate registration is required for each tube.

(b) All registrations issued for ionizing radiation-producing machines shall expire pursuant to the schedule at N.J.A.C. 7:28-3.12(f) or shall expire one year from the date of initial application as determined by the Department. Registrations are renewable by the registrant for a period of one year upon payment of the fee provided in N.J.A.C. 7:28-3.12.

(c) Applications for new registrations for ionizing radiation-producing machines will be accepted throughout the calendar year. The annual registration fee set forth in N.J.A.C. 7:28-3.12 shall be either prorated from the date the registration is issued until its expiration date pursuant to N.J.A.C. 7:28-3.12(f), except that the Department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year, or shall be assessed in

(b) Only those Department employees whose activities necessitate access to information for which a confidentiality claim has been made, shall open any envelope which is marked "CONFIDENTIAL".

(c) All submissions entitled to confidential treatment as determined at N.J.A.C. 7:28-4.21 shall be stored by the Department only in locked cabinets.

(d) Any record made or maintained by Department employees which contains confidential information shall contain appropriate indicators identifying the confidential information.

Recodified from N.J.A.C. 7:28-4.27 and amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
In (c), updated the N.J.A.C. reference. Former N.J.A.C. 7:28-4.26, Disclosure based on imminent and substantial danger, recodified to N.J.A.C. 7:28-4.25.

7:28-4.27 Wrongful access or disclosure; penalties

(a) A person shall not disclose, seek access to, obtain or have possession of any confidential information obtained pursuant to the Act or this chapter, except as authorized by this subchapter.

(b) Every Department employee who has custody or possession of confidential information shall take appropriate measures to safeguard such information and to protect against its improper disclosure.

(c) A Department employee shall not disclose, or use for his or her private gain or advantage, any information which came into his or her possession, or to which he or she gained access, by virtue of his or her official position of employment or contractual relationship with the Department.

(d) If the Department finds that any person has violated provisions of this subchapter, it may:

1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information.

2. Pursue any other remedy available by law.

(e) In addition to any other penalty that may be sought by the Department, violation of this subchapter by a Department employee shall constitute grounds for dismissal, suspension, fine or other adverse personnel action.

(f) Use of any of the remedies specified under this section shall not preclude the use of any other remedy.

Recodified from N.J.A.C. 7:28-4.28 by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
Former N.J.A.C. 7:28-4.27, Security procedures, recodified to N.J.A.C. 7:28-4.26.

7:28-4.28 (Reserved)

Recodified to N.J.A.C. 7:28-4.27 by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
Section was "Wrongful access or disclosure; penalties".

SUBCHAPTER 5. CONTROLLED AREAS FOR REGISTRANTS

7:28-5.1 Areas that registrants must control

Every area in which there is any reasonable possibility of an occupant receiving an exposure dose from radiation more than the dose specified in N.J.A.C. 7:28-6 for radiation levels outside a controlled area shall be set apart as a controlled area by any person having possession, custody or control of any ionizing radiation-producing machine.

Amended by R.2000 d.120, effective March 20, 2000.
See: 31 N.J.R. 3007(a), 32 N.J.R. 1016(a).
In (b), deleted N.J.A.C. reference.
Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Section was "Areas which must be controlled". In (a), substituted "Every" for "Except as provided in (b) below, every", deleted "and radioactive material" following "radiation" and deleted "and/or radioactive material" following "machine"; and deleted (b).

7:28-5.2 Limitations on controlled areas for registrants

No area within controlled areas shall be used for residential quarters although a room or rooms in residential buildings may be set apart as a controlled area.

Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Section was "Limitations on controlled areas".

7:28-5.3 Precautionary procedures

(a) Any person having possession, custody or control of any ionizing radiation-producing machine shall comply with the following precautionary procedures:

1. Area surveys shall be performed in controlled areas and in adjacent areas to insure that exposure levels to individuals conform to N.J.A.C. 7:28-6. The surveys shall be performed in accordance with N.J.A.C. 7:28-7, Radiation Surveys and Personnel Monitoring for Registrants.

2. All individuals entering a controlled area shall wear personnel monitoring equipment pursuant to the requirements for the use of personnel monitoring equipment in N.J.A.C. 7:28-7.

3. Proper and adequate instruction shall be given to all personnel working in controlled areas in the use of necessary safeguards and procedures, and they shall be supplied with such safety devices as may be required.

4. Adequate instructions or an escort shall be provided to all personnel frequenting or visiting controlled areas as shall be necessary to prevent unnecessary exposure.

5. The area shall be posted in accordance with N.J.A.C. 7:28-10.

Amended by R.2005 d.239, effective July 18, 2005.
See: 37 N.J.R. 8(a), 37 N.J.R. 2675(a).
In (a), substituted "Radiation Surveys and Personnel Monitoring" for "pertaining to Radiation survey and personnel monitoring" in 1.
Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
In the introductory paragraph of (a), deleted "and/or radioactive material" following "machine"; in (a)1, inserted "for Registrants"; deleted former (a)2 and (a)3; and recodified former (a)4 through (a)7 as (a)2 through (a)5.

7:28-5.4 (Reserved)

Repealed by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Section was "Termination of controlled areas".

SUBCHAPTER 6. STANDARDS FOR PROTECTION AGAINST RADIATION

7:28-6.1 Incorporation by reference

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

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

(c) The following provisions of 10 CFR Part 20 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference:

1. 10 CFR 20.1001, Purpose;

2. 10 CFR 20.1002, Scope;

3. 10 CFR 20.1003, Definitions, the following definitions are not incorporated by reference: "act," "Commission," "Department," and "sanitary sewerage system";

4. 10 CFR 20.1007, Communications;

5. 10 CFR 20.1009, Implementation collection requirements: OMB approval;

6. 10 CFR 20.1401, General provisions and scope;

7. 10 CFR 20.1402, Radiological criteria for unrestricted use;

8. 10 CFR 20.1406(b);

9. 10 CFR 20.1403, Criteria for license termination under restricted conditions;

10. 10 CFR 20.1404, Alternate criteria for license termination;

11. 10 CFR 20.1405, Public notification and public participation;

12. 10 CFR 20.1905(g), Exemptions to labeling requirements;

13. 10 CFR 20.2201(b)(2)(i), Reports of theft or loss of licensed material;

14. 10 CFR 20.2203(c), Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits;

15. 10 CFR 20.2206(a)(1), (3), (4), and (5), Reports of individual monitoring;

16. 10 CFR 20.2301, Application for exemptions; and

17. 10 CFR 20.2401, Violations.

(d) The following provisions of 10 CFR Part 20 are incorporated by reference with the specified changes:

1. "Nuclear Regulatory Commission," "NRC," "Commission," and "U.S. Nuclear Regulatory Commission," as used in the provisions of Part 20 of the Code of Federal Regulations that are incorporated by reference, mean the New Jersey Department of Environmental Protection, except when specifically noted in this subchapter;

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

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

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

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

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

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

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

9. 10 CFR 20.1003, in the definition of "person" replace "Commission" with "Department of Environmental Protection" and delete "or the Department of Energy (except that the Department shall be considered a person within the meaning of the regulations in 10 CFR chapter I to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission under section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021), the Nuclear Waste Policy Act of 1982 (96 Stat. 2201), and section 3(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842))"

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

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

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

13. 10 CFR 20.1006, delete "Except as specifically authorized by the Commission in writing, no" with "No," and replace "by the General Counsel" with "signed and approved by the Commissioner of the Department,";

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

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

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

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

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

19. 10 CFR 20.1406(c), insert "of 10 CFR Part 20" after Subpart B and replace "Subpart E of this part" with "N.J.A.C. 7:28-12";

20. 10 CFR 20.2001(a)(3), replace "within the limits of §20.1301; or" with "within the limits of §20.1301, provided prior permission in writing, in the form of a New Jersey Pollutant Discharge Elimination System permit, is obtained from the Department in accordance with N.J.A.C. 7:14A for discharges to ground or surface waters; or";

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

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

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

24. 10 CFR 20.2201(b)(2)(ii), replace "Administrator of the appropriate NRC Regional Office listed in Appendix D to part 20" with "Supervisor, Radioactive Materials Program of the Department";

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

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

27. Replace the text of 10 CFR 20.2203(d) with "All licensees, who make reports under paragraph (a) of this section shall submit the report in writing either by mail or by hand delivery to the Supervisor, Radioactive Materials Program of the Department at the addresses indicated in N.J.A.C. 7:28-1.5";

28. 10 CFR 20.2204, replace "Administrator of the appropriate NRC Regional Office listed in Appendix D to part 20" with "Supervisor, Radioactive Materials Program of the Department";

29. 10 CFR 20.2206(c), replace the second sentence with "The licensee shall submit the report to the Supervisor, Radioactive Materials Program of the Department at the address indicated in N.J.A.C. 7:28-1.5."; and

30. Replace the language at 10 CFR 20.2402 with "Section 26:2D-22 of the Radiation Protection Act of 1958,

as amended, provides for criminal sanctions for violation of any provision of the Act."

(e) Requests for adjudicatory hearings shall be made in accordance with N.J.A.C. 7:28-4.17, and requirements governing requests for stay of the effective date of the Department decision for which an adjudicatory hearing is requested are set forth at N.J.A.C. 7:28-4.18.

Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
Rewrote (c) and (d).

SUBCHAPTER 7. RADIATION SURVEYS AND PERSONNEL MONITORING FOR REGISTRANTS

7:28-7.1 Surveys inside controlled areas

(a) The registrant shall ensure that controlled areas shall be surveyed by, or under the direction of, a qualified individual to determine if the installation is maintained and operations are conducted in compliance with this chapter.

(b) The registrant shall ensure that radiation levels shall be determined with the use of suitable instruments and methods.

(c) The registrant shall ensure that the record of a survey shall contain, but shall not be limited to the radiation levels, the time the radiation is produced, the workweek and the fraction of the workweek that any individual may be exposed to the radiation.

(d) The registrant shall ensure that subsequent surveys shall be conducted at such times and as frequently as may be necessary to assure that the controlled areas and operations remain in compliance with this chapter.

Amended by R.2005 d.156, effective May 16, 2005.
See: 36 N.J.R. 2336(a), 37 N.J.R. 1826(a).
Rewrote the section.
Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Deleted "State licensee or" preceding "registrant" throughout; in (a), substituted "chapter" for "Chapter"; and former deleted (c) and (d); recodified former (e) and (f) as (c) and (d); in (c), deleted "and when required, the radioactive air concentrations and surface contaminations" from the end; and in (d), substituted "chapter" for "Chapter".

7:28-7.2 Surveys outside controlled areas

Surveys shall be made outside controlled areas at sufficient intervals and locations as may be necessary to insure compliance with N.J.A.C. 7:28-6.

Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Substituted "N.J.A.C. 7:28-6" for "Sections 6.2 (Radiation levels outside controlled areas) and 6.3 (Concentrations in effluents from controlled areas) of this Chapter".

7:28-7.3 Statement in lieu of actual survey

A written statement signed by a qualified individual and including his calculations and analysis of the dose rates in the vicinity of a radiation source may be acceptable in place of the survey required in N.J.A.C. 7:28-7.1, Surveys inside controlled areas.

Amended by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Substituted "N.J.A.C. 7:28-7.1," for "Section 7.1 (" and deleted ") of this Chapter, except when radioactive-air contamination or surface contamination is involved" from the end.

7:28-7.4 Use of personnel-monitoring equipment

(a) Each owner shall supply appropriate personnel-monitoring equipment to and shall require that it be used by:

1. Each individual who enters a controlled area under such circumstances that he receives, or is likely to receive, a dose in excess of 25 millirems in any period of seven consecutive days;

2. Each individual under 18 years of age who enters a controlled area under such circumstances that he receives or is likely to receive a dose in excess of ten millirems in any period of seven consecutive days;

3. Each individual who enters a high radiation area; and

4. At least one visitor in a group of visitors entering a controlled area.

(b) All individuals required to wear personnel-monitoring equipment shall be instructed in its proper use and purpose. Records shall be kept in accordance with Section 8.1 (Personnel-monitoring records) of this Chapter.

(c) When an individual working on the premises of an owner, but not employed by him is wearing personnel-monitoring equipment provided by his employer, the owner of the radiation source shall not be required to provide additional personnel-monitoring equipment.

7:28-7.5 (Reserved)

Repealed by R.2008 d.281, effective September 15, 2008 (operative September 30, 2009).
See: 40 N.J.R. 2309(a), 40 N.J.R. 5196(b), 41 N.J.R. 3415(a).
Section was "Requirements for bio-assays".

SUBCHAPTER 8. RECORDS FOR REGISTRANTS

7:28-8.1 Personnel-monitoring records

(a) Clear and legible records shall be maintained by the owner for calendar quarters on Form RH-26, or on a clear and legible form containing all the information required on RH-26. These records shall show the radiation exposures of all individuals who are required to wear personnel-monitoring

3. Each applicant for examination in chest radiologic technology shall have satisfactorily completed the curriculum for chest radiography as approved by the Board or its equivalent as determined by the Board.

4. Each applicant for examination in dental radiologic technology shall have satisfactorily completed the curriculum for dental radiography as approved by the Board or its equivalent as determined by the Board.

5. Each applicant for examination in podiatric radiologic technology shall have satisfactorily completed the curriculum for podiatric radiography as approved by the Board or its equivalent as determined by the Board.

6. Each applicant for examination in orthopedic radiologic technology shall have satisfactorily completed the curriculum for orthopedic radiography as approved by the Board or its equivalent as determined by the Board.

7. Each applicant for examination in urologic radiologic technology shall have satisfactorily completed the curriculum for urologic radiography as approved by the Board or its equivalent as determined by the Board.

(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. 7:28-19.17(a), if aggrieved by the Board's actions.

(d) An applicant who fails to pass the examination may reapply for the examination provided the applicant meets the requirements of this section.

(e) Any person who has failed a particular examination three times shall not be permitted to take that examination a fourth time until that person has submitted proof of completion of a remedial course that includes a full review of course material in areas of low performance as identified by the examination.

(f) After the fourth failure, the person may not retake a particular examination until that person has submitted proof that he or she has re-enrolled and successfully completed a remedial course of study in a Board-approved school of radiologic technology, or an equivalent school as determined by the Board, in an appropriate time frame determined by the school.

7:28-19.7 Requirements of applicants for licensure

(a) Subject to (d) below, the Board shall issue a license to any applicant who has paid to the Department a fee as specified in 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. Has met the requirements in N.J.A.C. 7:28-19.6(a) and (b), and

2. Has passed the Board's examination in the license category for which the applicant has applied.

(b) In lieu of its own examination required by (a)2 above, the Board may accept a valid active certificate issued by the American Registry of Radiologic Technologists (ARRT) or a valid active certificate or license as a radiologic technologist issued by another state, provided the Board determines that the ARRT's or the other state's standards are equivalent to those established by the Board.

(c) In lieu of its own examination for a dental radiologic technologist LRT(D), required by (a)2 above, the Board may accept:

1. A valid registration as a dental assistant issued by the New Jersey Board of Dentistry, provided the applicant passed the certification examination including the "Radiation Health and Safety" examination given by the Dental Assisting National Board and any education requirements as may be prescribed by the New Jersey Board of Dentistry, and provided the Board determines that the above standards are equivalent to those established by the Board; or

2. A valid active certificate issued by the Dental Assisting National Board demonstrating that the applicant has successfully passed the "Radiation Health and Safety" examination, provided the Board determines that the above standards are equivalent to those established by the Board.

(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. 7:28-19.17(a), if aggrieved by the Board's actions.

7:28-19.8 Temporary, conditional and restricted licenses

(a) The Board may, at its discretion, issue a temporary license to any person who has submitted a license application for a license in diagnostic radiologic technology or radiation therapy technology when the issuance of a temporary license may be justified by reason of special circumstances. A temporary license shall be issued only if the Board finds that its issuance will not violate the purposes of the Radiation Protection Act or the Radiologic Technologist Act, or tend to endanger the public health and safety. A temporary license shall expire 90 calendar days after the date the applicant has successfully completed the course of study in radiologic technology. Only one temporary license in a specific licensure category shall be issued to any person.

(b) 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.

(c) No person who has been issued a conditional or restricted license shall practice outside of the conditions or restrictions as placed on the license by the Board.

7:28-19.9 License expiration, reissuance and renewal

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

(b) A license issued in accordance with this subchapter is effective as of the date of issuance, or January 1st of an odd numbered year, whichever is later, and expires on the immediately following December 31st of an even numbered year. No license is valid longer than two years. It is the Board's practice, but not its obligation, to mail license renewal applications to all licensees at least 60 calendar days prior to the license expiration date.

(c) A radiologic technologist 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 shall renew his or her license any time prior to its expiration by submitting a renewal application for a radiologic technology license and the required renewal fee specified in 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 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. 7:28-19.17(b) if aggrieved by the Board's action.

(f) A radiologic technologist 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 in N.J.A.C. 7:28-19.10(a)3. If such individual has not engaged in the practice of radiologic technology 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 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 without a license.

(g) A radiologic technologist 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.

7:28-19.10 Fees

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

1.	Examination Fee:	$160.00;
2.	License Application Fee:	$60.00;
3.	License Reissuance or Renewal Fee:	$90.00;
4.	License Reprint Fee:	$20.00.

(b) Any new school that submits an application for Board approval in any of the categories of radiologic technology shall include, as an integral part of said application, a service fee as follows:

1.	Diagnostic Radiography School Fee:	$2,500;
2.	Radiation Therapy Technology School Fee:	$2,500;
3.	Dental Radiography School Fee:	$1,650;
4.	Limited Radiography School Fee:	$1,650.

(c) A Board-approved school of radiologic technology shall submit the appropriate annual fee as follows:

1.	Diagnostic Radiography School Fee:	$1,000;
2.	Radiation Therapy Technology School Fee:	$1,000;
3.	Dental Radiography School Fee:	$400.00;
4.	Limited Radiography School Fee:	$200.00.

(d) All fees shall be in the form of a check or money order or any other manner acceptable to the Department made payable to the Treasurer, State of New Jersey. Fees submitted to the Department are not refundable.

(e) All license renewal or reissuance applications and the associated fees specified in (a)3 above, and the approved school annual fees as specified in (c) above, shall be submitted to:

Department of Treasury
Division of Revenue
PO Box 417
Trenton, New Jersey 08646-0417

certificate and may revoke or suspend a certificate if the person has:

1. Violated any provision of this chapter;

2. Disregarded the safety, health and welfare of the public in the performance of his or her professional duties;

3. Developed or implemented a QA/QC program or performed a Medical Physicist's QC Survey that is not in conformance with standards in this subchapter; or

4. Affixed his or her signature to any QA/QC program, report or QC survey, which was not prepared by him or her.

Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
In (h), substituted "X-ray Compliance" for "Radiological Health", "420" for "415", and "0420" for "0415", and inserted "Mail Code 25-01".

7:28-22.14 (Reserved)

Repealed by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
Section was "Compliance schedule".

7:28-22.15 Severability

If any provision, or part thereof, of this subchapter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect the remainder of, or other provisions or applications of, this subchapter which can be given effect without the invalid provision, portion or application. To this end, the provisions of this subchapter are declared to be severable.

SUBCHAPTER 23. (RESERVED)

SUBCHAPTER 24. NUCLEAR MEDICINE TECHNOLOGY

7:28-24.1 Purpose, scope and applicability

(a) This subchapter establishes educational and licensure requirements, as well as delineating the scope of practice, for persons engaged in the practice of nuclear medicine technology. This subchapter further establishes certain responsibilities of authorized medical users, owners, and registrants of radiation sources used in the practice of nuclear medicine technology. This subchapter also establishes standards for the operation of, and the Department's approval of, educational programs in nuclear medicine technology.

(b) This subchapter shall not be interpreted as precluding persons specializing in nuclear medicine physics, computer science, or engineering from manipulating data under the supervision of an authorized medical user.

(c) The following are exempt from the requirement to possess a nuclear medicine technology license:

1. Authorized medical users;

2. Hospital residents, hospital interns or hospital fellows specializing in nuclear medicine, who are under the direction of an authorized medical user;

3. Hospital residents, hospital interns or hospital fellows involved in nuclear medicine procedures but not specializing therein, provided that they are acting under the direct supervision of either an authorized medical user or a licensed nuclear medicine technologist who is under the direction of an authorized medical user;

4. Students enrolled in and attending a school or college of medicine or osteopathy, who are acting within the school's curriculum, provided that students are under the direct supervision of either an authorized medical user or a licensed nuclear medicine technologist who is under the direction of an authorized medical user; and

5. Students enrolled in and attending a school of nuclear medicine technology, who are acting within the school's approved curriculum, provided that such students are identified on the student list filed by the school with the Department, and are acting in a clinical affiliation approved by the Department, upon the recommendation of the Commission, and are under the direct or immediate supervision of either an authorized medical user or a licensed nuclear medicine technologist who is under the direction of an authorized medical user.

(d) The requirements of this subchapter shall not apply to a licensed radiopharmacy operating within the scope of its Department radioactive materials license, New Jersey Board of Pharmacy license, and Nuclear Regulatory Commission license.

(e) The provisions of this subchapter do not apply to the therapeutic use of sealed sources of ionizing radiation.

7:28-24.2 Definitions

(a) The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Authorized medical user" means a licensed physician who is identified as an authorized user on a Department radioactive materials license that authorizes the medical use of naturally occurring or accelerator produced radioactive materials or on a Nuclear Regulatory Commission license that authorizes the medical use of by-product materials.

"Diagnostic dose" means a radionuclide or radiopharmaceutical which is intended for diagnostic purposes.

"Direct supervision" means guidance, direction and instruction by an authorized medical user or license nuclear medicine technologist who is personally aware of, and

maintains independent professional responsibility for, the procedure intended for a given patient, and is present in the facility and is available for immediate assistance.

"Immediate supervision" means in-room presence for instruction, direction and guidance by an authorized medical user or a licensed nuclear medicine technologist, who is available to assume control of the given procedure.

"Initial application" means the first application submitted by an individual to the Department for a license to practice nuclear medicine technology.

"Licensed nuclear medicine technologist" (LNMT) means a person who possesses a valid license issued by the Department to engage in the practice of nuclear medicine technology.

"Licensed physician" means an individual who holds a plenary license to practice medicine issued by the New Jersey State Board of Medical Examiners.

"Practice of nuclear medicine technology" means preparing radiopharmaceuticals for administration to humans, administering radiopharmaceuticals to humans, positioning of patients for examinations which require the administration of radiopharmaceuticals to humans, setting technical factors for examinations which require the administration of radiopharmaceuticals to humans, operating imaging and/or measuring equipment for examinations which require the administration of radiopharmaceuticals to humans, or acquiring and manipulating patient data, other than demographic and clinical data, with or without the use of computers for procedures requiring the administration of radiopharmaceuticals.

"Probationary approval" means approval which may be awarded by the Department to a school of nuclear medicine technology which is not in full compliance with N.J.A.C. 7:28–24.10 and 24.11 but which has entered into a written agreement, approved by the Commission, to correct the item(s) of noncompliance.

"Provisional approval" means approval which may be awarded by the Department to a new school of nuclear medicine technology which, upon review by the Commission of an application and self-study document, is found to be in compliance with N.J.A.C. 7:28–24.10 and 24.11. Provisional approval may be awarded to a new school of nuclear medicine technology prior to an on-site evaluation of its program.

"Radionuclide" means a radioactive element or a radioactive isotope.

"Radiopharmaceutical" means a radionuclide or radionuclide compound designed and prepared for administration to humans.

"Supervision" means guidance and instruction.

"Temporary license" means a license which has been issued by the Department to an individual to act as a nuclear medicine technologist for a limited period of time.

"Therapeutic dose" means a radionuclide or radiopharmaceutical which is intended for therapeutic purposes.

(b) Definitions for other terms used in this subchapter may be found in N.J.A.C. 7:28–1.

7:28–24.3 General provisions

(a) No owner, authorized medical user, person or business shall cause, allow or permit any other person to prepare or administer radiopharmaceuticals or to otherwise engage in the practice of nuclear medicine technology or to act as a licensed nuclear medicine technologist unless that other person is an authorized medical user or possesses a current, validly obtained license as a nuclear medicine technologist, pursuant to this subchapter.

(b) No person shall prepare or administer radiopharmaceuticals or otherwise engage in the practice of nuclear medicine technology or act as a licensed nuclear medicine technologist unless such person is an authorized medical user or possesses a current, validly obtained license as a nuclear medicine technologist, pursuant to this subchapter.

(c) No person shall use sealed sources composed of radionuclides for purposes of radiotherapy, except for an authorized medical user or a radiation therapy technologist as licensed pursuant to N.J.S.A. 26:2D–24 et seq. and N.J.A.C. 7:28–19.

(d) No license nuclear medicine technologist or other person, except for an authorized medical user, shall:

1. Prescribe, determine the dosage for, or order the administration of any form of radionuclides to a human being; or

2. Apply, administer, determine the dosage for, or order the administration of therapeutic doses of any form of radionuclides to a human being.

(e) Subsection (d) above shall not be interpreted as precluding a licensed physician or any other medical professional authorized by their licensing agency from requesting a diagnostic or therapeutic procedure for a human being.

(f) Under the direction of a licensed physician, a licensed nuclear medicine technologist may administer pharmaceuticals provided that the New Jersey State Board of Medical Examiners has authorized the administration of the pharmaceutical through the promulgation of rules at N.J.A.C. 13:35 or the adoption of policy. Any inquiry about the authority to administer a specific pharmaceutical should be directed to the Board of Medical Examiners.

(g) The owner, the registrant, and the holder of a Federal or State license for radioactive materials shall be jointly and severally responsible for identifying and documenting the identity of an authorized medical user for each administration of that radiopharmaceutical. Such authorized medical user shall be responsible for any administration of such radiopharmaceutical by a licensed nuclear medicine technologist.

(h) The authorized medical user, the owner, the registrant, the holder of a Federal or State license for radioactive materials, and the licensed nuclear medicine technologist, shall be jointly and severally responsible for complying with all license conditions including, but not limited to, recording such information as may be required as a condition of registration or license issued pursuant to this chapter.

(i) For each administration of a radiopharmaceutical, the authorized medical user, owner, registrant, and licensed nuclear medicine technologist shall be jointly and severally responsible for recording the following information:

1. The generic name, trade name, or standard abbreviation of the radiopharmaceutical, its lot number and its expiration date, and the radionuclide;

2. The patient's or human research subject's name, and identification number if one has been assigned;

3. The prescribed dosage and activity of the dosage at the time of measurement, or a notation that the total activity is less than 30 microcuries;

4. The date and time of the measurement;

5. The date and time of administration;

6. The initials of the individual who made the record; and

7. The name of the identified authorized medical user.

(j) A licensed nuclear medicine technologist shall carry out the practice of nuclear medicine technology in a manner consistent with any applicable State or Federal license conditions.

(k) No person shall:

1. Engage in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense while engaged in activities relating to nuclear medicine technology or obtaining a nuclear medicine technology license;

2. Falsify or make misleading statements on any application for examination or license;

3. Make misleading or false statements to a representative of the Department or Commission;

4. Alter any license or examination results;

5. Fail to comply with any provision of the Act or any rules promulgated thereunder;

6. Engage in the practice of nuclear medicine technology while in an intoxicated state or under the influence of narcotics or any drugs which impair or tend to impair consciousness, judgment or behavior;

7. Engage in negligence, malpractice or incompetence while practicing nuclear medicine technology;

8. Falsify any records, or destroy or steal property or records, relating to the practice of nuclear medicine technology;

9. Fail to exercise due regard for safety, life or health while engaged in the practice of nuclear medicine technology;

10. Violate any condition of a New Jersey radioactive materials license issued pursuant to this chapter;

11. Violate any condition and restriction that the Department has placed on his or her nuclear medicine technology license; or

12. Fail to display immediately his or her nuclear medicine technology license, or a true copy thereof, upon request of the Department, employer or any patient.

(l) Any authorized medical user or licensed nuclear medicine technologist who directly supervises another individual engaging in the practice of nuclear medicine technology shall be personally aware of, and maintain any other legal responsibility for, the procedure intended for a given patient, and shall be present in the facility and available for immediate assistance.

7:28–24.4 Examination for licensure of nuclear medicine technologists

(a) Subject to (b) below, the Department shall admit to examination for licensure any applicant who has paid a fee to the Department as specified in N.J.A.C. 7:28–24.8 and submitted satisfactory evidence, verified by oath or affirmation, that the applicant:

1. At the time of application is at least 18 years of age;

2. Has successfully completed four years of secondary school or approved equivalent, at a duly accredited educational institution; and

3. Has successfully completed either a course of study in nuclear medicine technology approved by the Department or an equivalent course of study as determined by the Department, upon the recommendation of the Commission.

(b) The Department may deny an examination application if the applicant has committed any act or omission specified at N.J.A.C. 7:28–24.9(a).

(c) An applicant who fails to pass the examination may reapply in accordance with this section.

(d) Examinations shall be scheduled at the discretion of the Department.

7:28–24.5 Nuclear medicine technologist licenses

(a) The Department may issue a license to any applicant who is at least 18 years of age and has paid a fee to the Department as specified in N.J.A.C. 7:28–24.8 and who has submitted satisfactory evidence, verified by oath or affirmation, that the applicant:

1. Has within three years of the date of application for a license passed a nuclear medicine technology licensing examination approved by the Commission;

2. Has within three years of the date of application passed a nuclear medicine technology examination administered by the American Registry of Radiologic Technologists, Nuclear Medicine Technology Certification Board of American Society of Clinical Pathologists, or another examination approved by the Commission;

3. Holds a current certificate, registration, or license as a nuclear medicine technologist issued by another state or country or by any of the organizations named in N.J.A.C. 7:28–24.5(a)2 and has engaged in the practice of nuclear medicine technology for at least 1,000 hours during the preceding three years in a manner consistent with this chapter; however, such acceptance shall be conditioned upon the certification, registration or licensure standards in the other state or country being equivalent and satisfactory to the Commission; or

4. Has passed, more than three years prior to the application for a license, a nuclear medicine technology examination approved by the Commission, and has legally engaged in the practice of nuclear medicine technology for at least 1,000 hours during the three years preceding the application for a license in a manner consistent with this chapter.

(b) The Department may deny a license application if the applicant has committed any act or omission specified at N.J.A.C. 7:28-24.9(a).

7:28-24.6 Temporary, conditional and restricted licenses

(a) The Department may issue a temporary license to any person who has graduated from a nuclear medicine technology educational program approved by the Department pursuant to N.J.A.C. 7:28-24.11. A temporary license shall be issued only if the Department finds that its issuance will not violate the purposes of the Act or tend to endanger public health and safety.

(b) A temporary license shall expire 60 calendar days after the date of graduation. A single 30 calendar day extension may be granted provided that the applicant has taken an approved licensing examination and is awaiting the results of the examination.

(c) The Department, at its discretion, may issue a conditional or restricted license including, but not limited to, a condition or restriction limiting the scope of practice of a licensed nuclear medicine technologist.

(d) No person who possesses a conditional or restricted license shall practice outside of the conditions or restrictions as listed on the license.

7:28-24.7 License expiration and license renewal

(a) No nuclear medicine technologist shall practice without a valid New Jersey nuclear medicine technology license.

(b) A nuclear medicine technologist shall inform the Department of any change in the address of record within 30 calendar days of the change.

(c) In order to maintain a valid license, a nuclear medicine technologist shall renew his or her license biennially by submitting a renewal application for a nuclear medicine technology license and the required renewal fee specified in N.J.A.C. 7:28-24.8.

(d) Each license expires on December 31 of the first even numbered year following the year of its issuance. A license may be renewed for a biennial term commencing January 1 of every odd numbered year and expiring on December 31 of the following year.

(e) A nuclear medicine technologist who possesses an expired license may renew the license, provided that the license has not been expired for more than three years. An individual who wishes to renew an expired license shall submit a renewal application and the current renewal fee to the Department. Such licenses shall be renewed for a period extending from date of renewal to midnight, December 31 of the next even numbered year.

(f) A nuclear medicine technologist who possesses a license which has been expired for more than three years may not have that license renewed, but may apply for a new license through re-examination and other applicable requirements for initial license applications at N.J.A.C. 7:28-24.4 or, if applicable, at N.J.A.C. 7:28-24.5.

7:28-24.8 Fees

(a) Any person who submits an 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: $75.00;
2. Initial license application fee: $40.00;
3. Biennial license renewal fee: $40.00.

(b) All fees shall be in the form of a check or money order made payable to the Treasurer, State of New Jersey.

1. The fees submitted to the Department are not refundable.

2. All examination and initial license applications and associated fees shall be mailed to:

State of New Jersey
Department of Environmental Protection
Bureau of X-ray Compliance
Mail Code 25-01
PO Box 420
Trenton, New Jersey 08625-0420

3. All biennial license renewal applications and associated fees shall be mailed to:

State of New Jersey
Department of Treasury
Division of Revenue
PO Box 417
Trenton, New Jersey 08646-0417

Amended by R.2005 d.239, effective July 18, 2005.
See: 37 N.J.R. 8(a), 37 N.J.R. 2675(a).
In (b), amended the zip code in 3.
Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
In the address in (b)2, substituted "X-ray Compliance" for "Radiological Health", "420" for "415", and "0420" for "0415", and inserted "Mail Code 25-01".

7:28-24.9 Examination application or license application denial, license revocation and suspension

(a) The Department, in addition to any penalties authorized by the Act, may deny any examination or license

application, and may revoke or suspend a nuclear medicine technology license, when the applicant or licensed nuclear medicine technologist has:

1. Violated any of the provisions contained in N.J.A.C. 7:28-24.3(b), (c), (d), (f), (h), (i), (j), (k) or (*l*);

2. Been convicted of, any crime which relates, or could relate, adversely to the practice of nuclear medicine technology. For the purpose of this section, a plea of guilty, non vult, no contest, or any other such disposition of alleged criminal activity shall be deemed a conviction;

3. Has been admitted to a pretrial intervention program or the substantial equivalent thereof based upon alleged conduct which relates, or could relate, adversely to the practice of nuclear medicine technology;

4. Has had his or her certification, registration, or license to practice nuclear medicine technology revoked or suspended by any other state or certifying agency for reasons consistent with this chapter; or

5. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the health, safety and welfare of the public.

(b) Any revocation or suspension issued pursuant to this section shall be in accordance with the following:

1. Revocation or suspension of a nuclear medicine technologist's license shall be initiated by the Department through issuance of a Notice of Revocation or Notice of Suspension. The Notice shall include the findings of the Department upon which the revocation or suspension is based. The Notice shall also include the date upon which the revocation or suspension shall become effective. The Notice may be accompanied by an Order requiring compliance with the Radiation Protection Act, N.J.S.A. 26:2D-1 et seq. or any rule promulgated pursuant thereto. Within 20 days of delivery of the Notice, an individual whose license is to be revoked or suspended may deliver to the Commissioner a written request for an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, to contest such revocation or suspension. The individual's request for an administrative hearing shall include a written statement of all issues of fact or law contained within the Notice which are disputed by the individual.

2. If the Commissioner determines the matter to be a contested case, he shall refer the matter to the Office of Administrative Law for hearing before an administrative law judge, pursuant to the Administrative Procedure Act and the Uniform Administrative Procedure Rules. Upon review of the record of the administrative hearing in contested cases the Commissioner may affirm, modify or reject the initial decision of the administrative law judge and/or the findings of the Department. If the Commissioner finds that the charges in a contested case have not been proven, he shall order them dismissed. If the Department's findings are found to be true, the Commissioner may, in his or her discretion, issue an order suspending or revoking the license of the individual. In uncontested cases, the revocation or suspension of the individual's license shall be effective as of the date specified in the Notice of Revocation or Notice of Suspension.

(c) This subchapter shall not in any way affect or abridge the powers of the Department to issue emergency orders pursuant to N.J.S.A. 26:2D-12 or to bring an action in Superior Court, pursuant to N.J.S.A. 26:2D-13.

7:28-24.10 School of nuclear medicine technology: standards for approval

(a) A school of nuclear medicine technology shall be approved by the Department if:

1. The curriculum includes the following minimum content areas or prerequisites:

i. Basic anatomy, physiology, and pathology;

ii. Intravenous injections, both direct and peripheral, and other methods shall include, but not limited to, into existing urinary catheters (indwelling and other), into existing nasogastric tubes or other gastric or intestinal feeding tubes, into existing central intravenous lines, through existing spinal needles placed into the subarachnoid space;

iii. Radiation physics and nuclear medicine physics;

iv. Radionuclide chemistry and pharmacology to include adverse reactions to radiopharmaceuticals and other pharmaceuticals used in nuclear medicine;

v. Statistics;

vi. Nuclear medicine departmental organization and function;

vii. Nuclear instrumentation;

viii. Radiation biology;

ix. Radionuclide therapy;

x. Radiation safety and radiation protection standards and codes;

xi. Laboratory procedures and techniques;

xii. Clinical application of radionuclides, for both diagnostic and therapeutic purposes;

xiii. Records and administrative procedures;

xiv. Methods of patient care;

xv. Medical law and ethics;

xvi. Computer applications;

xvii. Quality assurance; and

xviii. State and Federal regulations;

2. The curriculum includes a valid plan for well-structured competency-based clinical education; and

3. The school of nuclear medicine technology additionally complies with the Essentials and Guidelines of an Accredited Educational Program for the Nuclear Medicine Technologist (1997), which have been jointly adopted, jointly revised and published by the American College of Radiology, American Society of Radiologic Technologists, Society of Nuclear Medicine and Society of Nuclear Medicine—Technologist Section or their successors. These Essentials and Guidelines are incorporated into this rule by reference herein, as amended and supplemented, and may be obtained by contacting the Department.

7:28–24.11 School of nuclear medicine technology: process for approval; provisional approval; probationary approval; withdraw of approval and other general provisions

(a) The Department, upon recommendation of the Commission, shall approve a school of nuclear medicine technology if it has been determined that the school has complied with the requirements of this subchapter.

(b) In order to become an approved school, a school of nuclear medicine technology shall apply to the Department. Along with the application, a school of nuclear medicine technology applying for approval shall also submit to the Department a self-study document which shall include, but is not limited to, information regarding the school's instructional curriculum, faculty, classroom and clinical facilities, student policies and administrative organization. After review of the school's application and self-study document and a determination that the school substantially meets the standards set forth in this subchapter, the Department, upon the recommendation of the Commission, may provisionally approve the school. When the Department has determined that the school is in full compliance with the requirements of this subchapter, full approval may be issued.

(c) No school of nuclear medicine technology shall enroll students until provisional approval has been received from the Department.

(d) No school shall hold itself out to be an approved school of nuclear medicine technology until the school is approved by the Department.

(e) Upon the request of the Department and/or Commission, a school of nuclear medicine technology or its affiliates shall:

1. Demonstrate, to the satisfaction of the Department and/or Commission, that it complies with the requirements of this subchapter;

2. Permit an appointee of the Commission and/or an employee of the Department to conduct a site inspection. The Department, upon the recommendation of the Commission, may accept a site inspection or accreditation by a national accreditation agency recognized by the Commission; and

3. Make available to the Department and/or Commission such information or records as the Department or Commission, or their representatives, shall request.

(f) The Department, upon the recommendation of the Commission, may reduce the status of a school of nuclear medicine technology's approval to probationary approval for failure to comply with the provisions contained in this subchapter. A school on probationary approval shall:

1. Within a period of time determined by the Department, correct all specified deficiencies contained in a written agreement approved by the Department as recommended by the Commission;

2. Within 15 calendar days of receipt of notification, notify all enrolled students and all applicants via certified mail of the school's probationary approval status; and

3. Within 15 calendar days of receipt of notification, submit to the Department a copy of the probationary notice supplied to students.

(g) Any school of nuclear medicine technology subject to this subchapter shall:

1. Prepare and maintain a current and accurate written course syllabus for each content area delineated in N.J.A.C. 7:28–24.10(a). These documents shall include, but are not limited to: lesson plans, learning objectives, classroom schedules, and the student evaluation instruments. These documents shall be on file at the school and shall be produced for review by the Department or its representative during an inspection and shall be submitted to the Department upon request;

2. Issue to each candidate prior to admission a course catalog, bulletin, or other written statement which shall be currently dated and include a description of the curriculum as a whole, course descriptions, and information concerning amounts and terms for payment of any tuition or other fees or expenses to be incurred. The information contained in these documents shall accurately reflect the program being offered;

3. Report in writing to the Department, within 30 calendar days of any student's matriculation date, the name and address of each new student enrolled and, within 30 calendar days of any student's completion date, the name and address of each student who has successfully completed the course of study;

4. Assign students only to clinical affiliates which have been approved by the Department, upon the recommendation of the Commission;

5. Ensure that, while assigned to clinical education, students shall have on their person visible identification name badges which indicate that they are student nuclear medicine technologists;

6. Have and adhere to an educational plan for clinical assignments with clinical objectives relating to the practice of nuclear medicine technology. Students shall not take the responsibility or the place of licensed nuclear medicine technologists;

7. Ensure that prior to a student's demonstration of clinical competency in a given nuclear medicine technology activity that the activity is performed with immediate supervision. After clinical competency in the activity has been determined, the activity may be performed under direct supervision;

8. Ensure that radiation monitoring devices are worn by students, while assigned to any controlled area;

9. Ensure that all students are provided with whole body and finger radiation monitoring devices, during their period of attendance. Student exposure to radiation shall not exceed the occupational limits prescribed in this chapter. Within 30 days of the school's receipt of the radiation dosimetry report, the school shall inform all students of their most recent exposure readings. In the event that a student receives a high exposure reading, the school shall begin an investigation within 14 days of the school's receipt of a high exposure reading to find the cause and prevent recurrence of exposure which is deemed to be unnecessary. The results of this investigation and any action taken by the school shall be maintained in the student's file. Within 90 calendar days of departure from the school, students shall be provided with a record of their exposure history;

10. Inform the Department within 30 calendar days of any change that could adversely affect the program's ability to fulfill its commitment to students or has altered how the program operates since its last review and approval by the Department. Such changes include, but are not limited to: a change in any program official or faculty member, curriculum, loss of a clinical affiliate, the sequencing of courses, length of the program, sponsorship of the program; and

11. Continue to comply with all standards for approval in N.J.A.C. 7:28–24.10.

(h) A school of nuclear medicine technology may have its approval, provisional approval and/or probationary approval denied or withdrawn by the Department, upon the recommendation of the Commission, for failure to continue to comply with all provisions of this subchapter.

(i) The Department shall notify a school of nuclear medicine technology, by certified mail, of any violation or deficiency resulting in denial, withdraw, or withholding of approval or a change in approval status.

(j) The effective date of any notice issued pursuant to (f) or (h) above shall be 20 days following receipt of the Department's notice, unless otherwise stated in the notice.

(k) A school of nuclear medicine technology's approval may be terminated if the school does not have any students enrolled for a period of two successive years.

(*l*) A school of nuclear medicine technology whose approval has been terminated or has been withdrawn may apply for approval as a new school of nuclear medicine technology as provided in this subsection.

7:28–24.12 List of approved schools

A list of approved schools of nuclear medicine technology and their approval status shall be available from the Department, and may be obtained by contacting the Department. (See N.J.A.C. 7:28–24.8(b)2 for the Department's address.)

SUBCHAPTER 25 THROUGH 26. (RESERVED)

SUBCHAPTER 27. CERTIFICATION OF RADON TESTERS AND MITIGATORS

7:28–27.1 Scope

This subchapter establishes rules, requirements and procedures that a person who wishes to perform radon testing or mitigation in New Jersey shall comply with in order to become and remain certified. Certification is mandatory in New Jersey pursuant to N.J.S.A. 26:2D–70 et seq. for any person who sells radon/radon progeny devices, tests for radon/radon progeny or mitigates radon in buildings. Mitigation devices that reduce only radon progeny levels will not be certified under this subchapter. Any person not certified and performing radon services shall be subject to the criminal penalties in N.J.S.A. 26:2D–77.

7:28–27.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" means the New Jersey Radiation Protection Act, N.J.S.A. 26:2D–1 et seq.

"Applicant" means any person who applies for certification.

"Authorized measurement protocols" means, for radon measurements in air, the "Interim Indoor Radon and Radon Decay Product Measurement Protocols", E.P.A. 520/1–86–04, amendments thereto, or its latest revision; and "Interim Protocols for Screening and Follow-up Radon and Radon Decay Product Measurements", EPA 520/1–86–014–1; page 4 and 13, and 15.

Source Material from Ores Processed Primarily for Their Source Material Content.

(c) 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), replace "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";

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)(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.

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 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.

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;

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; and

37. 10 CFR 70.82, Suspension and operation in war or national emergency.

(c) 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)(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.

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 61. PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

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 10^5A_2;

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) 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 71.85(c), Preliminary determinations;

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 71.5(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";

6. 10 CFR 71.7(b), replace "Administrator of the appropriate Regional Office" with "Supervisor, Radioactive Materials Program";

7. 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";

8. 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";

9. 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.";

10. 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";

11. 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";

12. 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";

13. 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."

14. 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

15. 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.

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 62. RECIPROCITY

7:28-62.1 Incorporation by reference

(a) Except as set forth in (b) and (c) below, this subchapter incorporates by reference 10 CFR Part 150, Exemptions and Continued Regulatory Authority in Agreement States and in offshore waters under Section 274 [42 U.S.C. §2021].

(b) The following provisions of 10 CFR Part 150 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 150.3, Definitions of "Commission," "foreign obligation," "offshore waters," "production facility," "reconciliation," "uranium enrichment facility," and "utilization facility";

2. 10 CFR 150.4, Communications;

3. 10 CFR 150.7, Persons in offshore waters not exempt;

4. 10 CFR 150.8, Information collection requirements: OMB approval;

5. 10 CFR 150.10, Persons exempt;

6. 10 CFR 150.14, Commission regulatory authority for physical protection;

7. 10 CFR 150.15, Persons not exempt;

8. 10 CFR Part 150.15a, Continued Commission authority pertaining to byproduct material;

9. 10 CFR Part 150.16, Submission to Commission of nuclear material transfer reports;

10. 10 CFR Part 150.17, Submission to Commission of source material reports;

11. 10 CFR Part 150.17a, Compliance with requirements of US/IAEA safeguards agreement;

12. 10 CFR Part 150.19, Submission to Commission of tritium reports;

13. 10 CFR 150.20(a)(1)(i)(ii) and (iii), pertaining to recognition of Agreement State licenses;

14. 10 CFR Part 150.21, Transportation of special nuclear material by aircraft;

15. 10 CFR 150.30, Violations;

16. 10 CFR 150.31, Requirements for Agreement State regulation of byproduct material; and

17. 10 CFR 150.32, Funds for reclamation or maintenance of byproduct material.

(c) The following provisions of 10 CFR Part 150 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 150 of the Code of Federal Regulations that are incorporated by reference, mean the Department except at:

i. 10 CFR 150.3, definition of "Agreement State";

2. 10 CFR 150.3, "Act" shall mean the Radiation Protection Act of 1958, N.J.S.A. 26:2D-1 et seq.;

3. 10 CFR 150.5, 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,";

4. 10 CFR 150.20, add "or the U.S. Nuclear Regulatory Commission" after "Agreement State";

5. 10 CFR 150.20(a)(1), add "or the U.S. Nuclear Regulatory Commission" after "Agreement State," and replace "- -" with "New Jersey";

6. 10 CFR 150.20(a)(2), add "or the U.S. Nuclear Regulatory Commission" after "Agreement State";

7. 10 CFR 150.20(b), add "or by the U.S. Nuclear Regulatory Commission" after the first occurrence of "Agreement State," and replace all instances of "a non-Agreement State, in an area of exclusive Federal jurisdiction within an Agreement State, or in offshore waters" with "New Jersey";

8. 10 CFR 150.20(b), references to specific sections of 10 CFR part 30, refer to N.J.A.C. 7:28-51, sections of 10 CFR part 40, refer to N.J.A.C. 7:28-58, sections of 10 CFR part 70, refer to N.J.A.C. 7:28-60, and sections of 10 CFR part 39, refer to N.J.A.C. 7:28-57. Delete "§§ 74.11, 74.15, and 74.19 of this chapter" and replace "10 CFR parts 19, 20, and 71" with "N.J.A.C. 7:28-6, 50, and 61," and replace "part 34" with "N.J.A.C. 7:28-63";

9. 10 CFR 150.20(b)(1), replace "NRC Form-241, 'Report of Proposed Activities in Non-Agreement States'" with "NJRAD Form-241, 'Reciprocity Application Form'," and add "or U.S. Nuclear Regulatory Commission:" after "Agreement State";

10. 10 CFR 150.20(b)(1), replace "§ 170.31 of this chapter with the Regional Administrator of the U.S. Nuclear Regulatory Commission Regional Office listed on the NRC Form 241 and in appendix D to part 20 of this chapter for the Region in which the Agreement State that issued the license is located" with "N.J.A.C. 7:28-64 with the Department";

11. 10 CFR 150.20(b)(1), replace "Regional Administrator" with "Supervisor, Radioactive Materials Program or designee";

12. 10 CFR 150.20(b)(1)(i), replace "Region" with "Department" and replace both occurrences of "NRC Form-241" with "NJRAD Form-241";

13. 10 CFR 150.20(b)(1)(ii), replace "Region" with "Department";

14. 10 CFR 150.20(b)(1)(iii), replace "NRC Form-241" with "NJRAD Form-241" and add "or the U.S. Nuclear Regulatory Commission" after "Agreement State";

15. 10 CFR 150.20(b)(2), replace both occurrences of "NRC Form-241" with "NJRAD Form-241" and replace "Regional Administrator" with "Department";

16. 10 CFR 150.20(b)(3), replace "any non-Agreement State, in an area of exclusive Federal jurisdiction within an Agreement State, or in offshore waters" with "New Jersey";

17. 10 CFR 150.20(b)(4), replace "non-Agreement States or in areas of exclusive Federal jurisdiction within Agreement States" with "New Jersey" and replace "year, except that the general license in paragraph (a) of this section concerning activities in offshore waters authorizes that person to possess or use radioactive materials, or engage in the activities authorized, for an unlimited period of time" with "year.";

18. 10 CFR 150.20(b)(5), add "or the U.S. Nuclear Regulatory Commission"; and

19. 10 CFR 150.33, replace the wording of 10 CFR 150.33 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) The incorporation by reference of 10 CFR 150.20(b) shall not include the ability to issue general licenses to operate in areas of exclusive Federal jurisdiction and offshore waters, but only to Agreement State and NRC licensees that wish to operate within New Jersey's jurisdiction in accordance with N.J.A.C. 7:28-50.1(d).

(e) 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.

(f) 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.

Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
Rewrote (b) and (c).

SUBCHAPTER 63. LICENSES FOR INDUSTRIAL RADIOGRAPHY USING SEALED SOURCES AND RADIATION SAFETY REQUIREMENTS FOR SUCH INDUSTRIAL RADIOGRAPHIC OPERATIONS

7:28-63.1 Incorporation by reference

(a) Except as set forth in (b) and (c) below, this subchapter incorporates by reference 10 CFR Part 34, Licenses for Industrial Radiography Using Sealed Sources and Radiation Safety Requirements for Such Industrial Radiographic Operations.

(b) The following provisions of 10 CFR Part 34 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 34.8, Information collection requirements: OMB approval; and

2. 10 CFR 34.121, Violations.

(c) The following provisions of 10 CFR Part 34 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 34 of the Code of Federal Regulations that are incorporated by reference, mean the Department, except in 10 CFR 34.20(a)(1) and (2);

2. In every instance, replace "§" or "§§" with "10 CFR";

3. 10 CFR 34.1, replace "10 Parts 19, 20, 21, 30, 71, 150, 170, and 171 of this chapter" with "10 CFR Part 21 and N.J.A.C. 7:28-6, 50, 51, 61, 62 and 64";

4. 10 CFR 34.3, Definitions, "ALARA," replace "10 CFR Part 20" with "N.J.A.C. 7:28-6";

5. 10 CFR 34.5, 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";

6. 10 CFR 34.11, replace "on NRC Form 313, 'Application for Material License,' in accordance with the provisions of §30.32 of this chapter," with "an original application for a specific State license";

7. 10 CFR 34.20(b)(2), replace "10 CFR part 71" with "N.J.A.C. 7:28-61";

8. 10 CFR 34.25(a), replace "10 CFR part 20 of this chapter" with "N.J.A.C. 7:28-6";

9. 10 CFR 34.27(a), add "New Jersey," after "authorized to do so by";

FEE CATEGORY	LICENSE TYPE	ANNUAL FEE ($)
3.	Inspections	
A.	Routine	$0
B.	Non-routine Reinspection	Full Cost
C.	Pre-licensing	$400
D.	Reciprocity	$400
E.	Inspection as a result of an incident	Full Cost
4.	Additional Use Sites (Non-contiguous)	
A.	Non-profit educational institutions	25 percent of appropriate fee
B.	Medical Private Practices	50 percent of appropriate fee
5.	Devices under a General License Requiring Registration	$360
6.	General License Registration for Community or Non-Community Water Treatment Systems	$205
7.	Diffuse NARM License	$2,550
8.	X-ray fluorescence devices	
A.	A government body, department, agency, authority, or any other unit of any state, Federal, county, or local government using a X-ray fluorescence device	$205
B.	All others	$1,032

Administrative correction and change.
See: 42 N.J.R. 2127(a).
Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
Rewrote (c) and Table 2; and added (h).

7:28-64.3 Application fee

(a) An initial application for a license shall be accompanied by payment in the full amount of the fee specified in Tables 1 and 2 at N.J.A.C. 7:28-64.2.

(b) The Department may not process the application prior to the receipt of the required fee. The application fee is not refundable except in those cases where the Department determines that a license is not required.

(c) A license covering more than one of the categories in Tables 1 and 2 at N.J.A.C. 7:28-64.2 shall be accompanied by the prescribed fee for each category applicable to the license.

(d) The application fee for a category of NRC license that is not included in Table 1 at N.J.A.C. 7:28-64.2 shall be calculated as follows: NJ Fee = 0.75 (NRC Annual fee + 0.1 NRC application fee). NRC fees are established in 10 CFR Parts 170 and 171. The Department incorporates by reference the fee provisions of 10 CFR Parts 170 and 171, for purposes of calculating fees pursuant to this subsection.

7:28-64.4 Annual fee

(a) The annual fee is not refundable except in those cases where the Department determines that the fee is not required.

(b) Fees are payable 30 days after the date of the invoice.

(c) A license covering more than one of the categories in Tables 1 and 2 at N.J.A.C. 7:28-64.2 shall be invoiced for the prescribed fee for each category applicable to the license.

(d) The annual fee for a category of NRC license that is not included in Tables 1 and 2 at N.J.A.C. 7:28-64.2 shall be calculated as follows: NJ Fee = 0.75 (NRC Annual fee + 0.1 NRC application fee). NRC fees are established in 10 CFR Part 170 and 171. The Department incorporates by reference the fee provisions of 10 CFR Parts 170 and 171, for purposes of calculating fees pursuant to this subsection.

(e) The Department shall not release a facility for unrestricted use until the applicable annual fee is paid.

(f) A licensee who provides sufficient information for the Department to determine that the facility may be released for unrestricted use shall be refunded half of the annual fee, if the information is provided to the Department during the first half of the fiscal year. The first half of the fiscal year ends on midnight of December 31. No refund shall be given if the information is provided to the Department after December 31.

Amended by R.2014 d.083, effective May 5, 2014.
See: 45 N.J.R. 806(a), 46 N.J.R. 768(a).
Rewrote (e); and added (f).

7:28-64.5 Inspections

(a) The Department shall make periodic inspections of licensees.

(b) If the Department finds a violation that could have implications regarding worker or public dose limits at N.J.A.C. 7:28-6 during an inspection, the licensee must pay all Department costs associated with subsequent reinspection of the licensee. The costs shall be the actual costs incurred by the Department and include, but not limited to, labor, transportation, per diem, materials, legal fees, and monitoring costs.

7:28-64.6 Reciprocity fees

(a) A licensee submitting an application for reciprocal recognition of a materials license issued by another Agreement State or the NRC for a period of 180 days or less during a calendar year must pay one-half of the fee specified under Tables 1 and 2 at N.J.A.C. 7:28-64.2.

(b) The Department will not process the application for reciprocity prior to the receipt of the required fee.

7:28-64.7 Fees for licensees with additional use sites

(a) The Department will consider sites that are not contiguous or adjacent as additional use sites for non-profit educational institutions provided that:

1. The sites are operated by the same person;

2. The sites are in the same license category or categories;

3. The applicant for a license provides for one radiation safety officer, and if applicable, one radiation safety committee, as responsible for all sites; and

4. The Department is reasonably satisfied from the information provided in the application that the applicant will adequately control radioactive material at all sites listed in the application.

(b) Each additional use site as defined (a) above shall be charged 25 percent of the applicable fee for each applicable category.

(c) The Department will consider sites that are not contiguous or adjacent as additional use sites for private medical practices, provided that:

1. The sites are operated by the same person;

2. The sites are in the same license category or categories;

3. The applicant for a license provides for one radiation safety officer, and if applicable, one radiation safety committee, as responsible for all sites;

4. The Department is reasonably satisfied from the information provided in the application that the applicant will adequately control radioactive material at all sites listed in the application; and

5. There shall be no more than three additional use sites per license.

(d) Each additional use site as defined (c) above shall be charged 50 percent of the applicable fee for each applicable category.

7:28-64.8 Fees for license amendments

A letter requesting an amendment to a specific license shall be accompanied by payment in full of the fee specified in Table 2 at N.J.A.C. 7:28-64.2.

7:28-64.9 Failure to pay prescribed fees

(a) The Department will not process any application unless the licensee pays, on or before the due date, the fee prescribed by this subchapter.

(b) If the Department finds that a licensee has not paid a renewal fee prescribed by this section by the due date, the Department will take the appropriate enforcement action.

7:28-64.10 Annual adjustment of fees

(a) Each year the annual fees in Tables 1 and 2 in 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.

(b) The inflation factor shall be the past year percent change for the United States city average, all items, all urban consumers.

(c) If the inflation factor for a 12-month period is negative, the fees will remain unchanged from the previous year.

(d) The adjusted fees shall be reflected through a notice of administrative change, published in the New Jersey Register; however, the adjusted fees shall be effective on July 1, whether or not a notice of administrative change has been published.