

**§ 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.

**SUBCHAPTER 65. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL**

**§ 7:28-65.1 Incorporation by reference**

(a) Except as set forth in (b) and (c) below, this subchapter incorporates by reference 10 CFR Part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.

(b) The following provisions of 10 CFR Part 37 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 37.11(b).

(c) In addition to the changes in N.J.A.C. 7:28-1.6, the following provisions of 10 CFR Part 37 are incorporated by reference with the specified changes:

1. "Commission," "Nuclear Regulatory Commission," "NRC," and "U.S. Nuclear Regulatory Commission," as used in the following provisions of Part 37 of the Code of Federal Regulations that are incorporated by reference, mean the "U.S. Nuclear Regulatory Commission":

- i. 10 CFR 37.5 in definitions of "Agreement State" and "fingerprint orders";
- ii. 10 CFR 37.25(b)(2);
- iii. 10 CFR 37.27(a);
- iv. 10 CFR 37.27(c)(1) through (3);
- v. 10 CFR 37.29(a)(1);
- vi. 10 CFR 37.29(a)(7);

vii. 10 CFR 37.29(a)(8);

viii. 10 CFR 37.71; and

ix. 10 CFR 37.77(a)(1), limited to the NRC website and address for obtaining contact information for the office of each appropriate governor or governor's designee.

2. "Security Orders," as used in 10 CFR Part 37, means the license conditions imposed in NJ Radioactive Materials licenses that implement NRC's Orders Imposing Fingerprinting (EA-07-305).

3. 10 CFR 37.5 Definitions, "Atomic Energy Act of 1954," or "Act" shall mean "Atomic Energy Act of 1954" in the following instances:

- i. 10 CFR 37.5 in definition of "Agreement State";
- ii. 10 CFR 37.29(a);
- iii. 10 CFR 37.29(a)(7); and
- iv. 10 CFR 37.29(b);

4. 10 CFR 37.5, Definitions, in the definition of "fingerprint orders," delete "or the legally binding requirements issued by Agreement States";

5. 10 CFR 37.5, Definitions, in the definition of "license issuing authority," replace "or the appropriate agency of an Agreement State" with "the U.S. Nuclear Regulatory Commission or the appropriate agency of an Agreement State";

6. 10 CFR 37.5, Definitions, in the definition of "person," replace "Government agency" with "state or local government agency" and delete "other than the Commission or the DOE 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 or 1982 (96 Stat. 2201), and section 2(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842), and any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity";

7. 10 CFR 37.77 (a)(1), replace "The notification to the NRC may be made by email to *RAMQC\_SHIPMENTS@nrc.gov* or by fax to 301-816-5151" with "The notification to the Bureau of Environmental Radiation may be made by email to *RAMQC@dep.nj.gov* or by fax at the number provided at N.J.A.C. 7:28-1.5(b)"; and

8. 10 CFR 37.81(g), delete "In addition, the licensee shall provide one copy of the written report addressed to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001."

RADIATION PROTECTION PROGRAMS

HISTORY:

New Rule, R.2016 d.022, effective March 7, 2016 (operative March 19, 2016).

See: 47 N.J.R. 2589(a), 47 N.J.R. 2695(a), 48 N.J.R. 409(b).

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