



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
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November 15, 2018

Via email only (govops@ncleg.net)

Joint Legislative Commission on Governmental Operations
Joint Commission Assistant
Fiscal Research Division

RE: Request for consultation for Radioactive Materials and Accelerator Fee

Dear Commission Members:

The N.C. Department of Health and Human Services (DHHS) is submitting this request for consultation on a proposed rule adoption to the fees imposed on individuals registered or licensed under the N.C. Radiation Protection Act for radioactive materials and accelerators. The proposed rule, 10A NCAC 15 .1106, would increase annual license fees for individuals licensed to possess and use radioactive materials or accelerators. Accelerators are machines used to produce radiation. Both radioactive materials and accelerators are used in the healing arts and in industry for a variety of purposes. The proposed rule adoption is being published in today's edition of the N.C. Register (November 15, 2018) and a copy of the proposed rule is enclosed.

The Radioactive Materials Branch is part of the Radiation Protection Section, Division of Health Service Regulation, in DHHS. Currently, the Radioactive Materials Branch is operating at a deficit, necessitating a fee increase to cover its operational expenditures. The last time DHHS increased radioactive materials and accelerator annual license fees was in 2011.

Statutory Authority for Fee/Amount of Current Fee/Amount of Proposed Fee

DHHS is authorized to set these fees by N.C. Gen. Stat. §104E-9(a)(8) and §104E-19(a). §104E-19(a) requires that these fees provide revenue to offset DHHS's costs in performing its duties under the N.C. Radiation Protection Act.

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

The proposed fee increase is a flat percentage of the annual license fees set by the U.S. Nuclear Regulatory Commission (NRC). The current and proposed fees are demonstrated in the Table below:

Table of Current and Proposed Fees:

License Category	Current Fee	Proposed Fee
Broad Medical	\$5,250	\$6,760
Broad Academic and Research and Development	\$3,500	\$5,180
Broad Manufacturing and Distribution (new license category)	\$3,500	\$6,100
Industrial Radiography	\$3,500	\$5,400
Well Logging		\$3,200
Medical without Written Directive	\$950	\$2,940
Medical with Written Directive	\$2,900	\$4,760
Veterinarian (new license category, included in 'Other')		\$1,860
Fixed Nuclear Gauge (included in 'Other')	\$550	\$1,860
Portable Nuclear Gauge (included in 'Other')	\$425	\$1,860
Manufacturing and Distribution, including Radiopharmacy	\$2,250	\$2,320
per active Sealed Source and Device registration		\$1,480
Irradiator $\geq 10\text{KCi}$	\$8,500	\$19,140
Irradiator $<10\text{KCi}$	\$4,500	\$2,160
Laboratory, Academic, Research and Development	\$1,900	\$2,960
Service/Consultants (included in 'Other')	\$400	\$1,860
Other (includes license types noted above)	\$500	\$1,860
General License without annual registration requirement	\$200	\$200
General License with annual registration requirement	\$325	\$325
Accelerators* (all)	\$2,000	\$4,760

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Explanation of the Need for Fee

North Carolina's Governor entered into an Agreement with the United States Atomic Energy Commission (now the NRC), effective August 1, 1964, to provide for the discontinuance of NRC regulatory authority and responsibility within the State. The Radiation Protection Section is the agency tasked with regulating the use of radioactive materials on behalf of the State, with its core mission being to protect the health and safety of the public and the environment from unnecessary exposure to radiation. Currently, the Radioactive Materials Branch of the Radiation Protection Section is spending more than it receives in license fees and has been for the last three years. The shortfall in income has been addressed by transferring funds from the Radiation Protection Section's Radiology Compliance Branch. This limits the ability of both Branches to provide outreach and other services to the public and is not sustainable for the future. This fee increase should provide sufficient revenue to fund the Radioactive Materials Branch for the next five years.

Please let us know if you have questions or require further information.

Sincerely,



Joel Johnson, Assistant General Counsel
Department of Health and Human Services

Attachment

cc: Dr. Carmine Plott, PhD, Chair, N.C. Radiation Protection Commission
Mark Payne, Director, DHSR
Lee Cox, Chief, Radiation Protection Section
Emery Milliken, Deputy Director, DHSR
Nadine Pfeiffer, Rule Review Manager, DHSR

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10A NCAC 15 .1106 is proposed for amendment as follows:

10A NCAC 15 .1106 RADIOACTIVE MATERIALS AND ACCELERATOR FEE AMOUNTS

(a) Annual fees for persons licensed pursuant to the provisions of Section .0300 of this Chapter ~~are as listed in the following table:~~ shall be:

Type of Radioactive Material License	Annual Fee
Specific license of broad scope <u>including:</u>	
Medical Broad -academic or research and development (R&D)	\$ 5,250.00 <u>\$ 5,180.00</u>
Academic Broad -manufacture or distribution	\$ 3,500.00 <u>\$ 6,100.00</u>
Research and Development Broad	\$ 3,000.00
-medical	\$ 6,760.00
Specific license <u>including:</u>	
-educational institutions, R&D laboratories	\$ 2,960.00
-industrial radiography (with temporary subsites)	\$ 3,500.00 <u>\$ 5,400.00</u>
-industrial radiography (in plant only)	\$ 2,600.00
-irradiator >10,000Ci	\$ 19,140.00
-irradiator ≤10,000Ci	\$ 2,160.00
-manufacture or distribution	\$ 2,320.00
-medical (human use), no written directive required	\$ 2,940.00
-medical (human use), written directive required	\$ 4,760.00
-medical institution other than teletherapy	\$ 2,900.00
-medical private practice	\$ 950.00
-mobile medical practice (home office including 1 client site)	\$ 1,600.00
-mobile medical practice (per additional client location)	\$ 350.00
-medical teletherapy	\$ 2,100.00
-fixed industrial gauges	\$ 550.00
-portable gauges	\$ 425.00
-gas chromatographs	\$ 375.00
-manufacture or distribute	\$ 2,250.00
-irradiator >100,000Ci	\$ 8,500.00
-irradiator ≤100,000Ci	\$ 4,500.00
-educational institutions	\$ 1,900.00
-water remediation activities (home office including 1 client site)	\$ 1,350.00
-water remediation activities (per additional client location)	\$ 280.00
-services/consultants	\$ 400.00
other -services, consultants, gauges (all types), or not specified above	\$ 500.00 <u>\$ 1,860.00</u>

-well logging, subsurface tracer studies \$ 3,200.00

General ~~licenses~~ license including:

~~licenses subject~~ -not subject to annual registration requirements \$ ~~325.00~~ \$ 200.00

~~licenses not subject~~ -subject to annual registration requirements \$ ~~200.00~~ \$ 325.00

-possession of self-luminous devices under Rule .0309 of this Chapter no fee

(b) Annual fees for persons licensed pursuant to the provisions of Section .0900 of this Chapter ~~are as listed in the following table:~~ shall be four thousand seven hundred sixty dollars (\$4,760.00).

<u>Type of Accelerator License</u>	<u>Annual Fee</u>
Medical (home office including 1 unit)	\$ 2,000.00
Medical (per additional unit)	\$ 200.00
Industrial/Manufacturing (home office including 1 unit)	\$ 2,000.00
Industrial/Manufacturing (per additional unit)	\$ 200.00
Sales, Service, Refurbishment, Manufacture	\$ 2,000.00

(c) ~~Annual fees~~ Fees for out-of-state persons granted permission to use sources of radiation in this ~~state~~ State pursuant to provisions of Rule .0345 of this Chapter are the same as that provided for in the applicable category specified in Paragraphs (a) and (b) of this Rule. ~~Such~~ The fees ~~are~~ shall be due when the application for reciprocal recognition of out-of-state license ~~or registration is made in the same manner as for a new license or registration as specified in Rule .1102.~~ is made.

(d) Each location listed on a license issued by the Agency that is not part of a contiguous property controlled by the licensee shall require an additional fee equal to the amount specified in Paragraphs (a) and (b) of this Rule. Fees for client locations listed on mobile medical licenses shall be one-half of the amount specified in Paragraphs (a) or (b) of this Rule for each client site.

(e) Persons licensed to conduct activities subject to multiple categories of fees under Paragraph (a) of this Rule shall be required to pay only the highest fee category.

(f) Persons possessing Sealed Source and Device Registration (SS&D) certificates shall pay an annual fee of one thousand four hundred eighty dollars (\$1,480.00) per active SS&D certificate issued by the Agency, in addition to any amounts specified in Paragraph (a) of this Rule.

History Note: Authority G.S. 104E-9(a)(8); 104E-19(a);

Eff. August 1, 2007;

Amended Eff. July 1, 2011;

Transferred and Recodified from 15A NCAC 11 .1106 Eff. February 1, ~~2015~~ 2015.

Amended Eff. May 1, 2019.