

FEE REPORT FORM
Radioactive Material Licenses

Environmental Protection / Radiation Protection
Agency

November 13, 2007

Date

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FEE COLLECTIONS:	<u>2006</u>	<u>2007 est.</u>	<u>2008 est.</u>	<u>2009 est.</u>
Current Fee Structure ¹	\$407,290	\$425,865	\$ 425,865	\$ 425,865
Current Fee Structure ²			\$ 3,125,965	\$ 3,125,965
Proposed Fee Structure ²			\$ 4,082,620	\$ 4,082,620

¹ Without Agreement State

² With Agreement State

FEE TITLE AND RATE:

Current 25 PA Code 218.11(c), Annual license fees for radioactive material. See Appendix A attached.

Proposed The fee title remains the same. The current fee structure is two tiered to accommodate the current licensing program which is for naturally occurring and accelerator produced radioactive material (NARM-Only) and additional fee categories that would be needed for the licensing of byproduct, source and special nuclear material under Agreement State in the future. Footnote 2 of Appendix A of the current regulation provides for the NARM fee categories to be terminated within one year of becoming an Agreement State and be replaced by the equivalent byproduct material fee category. As this transition was expected to have been completed by 2004 and will be in place by March 31, 2008, the current NARM-Only fee categories have been removed from the proposed fees in Appendix A and the corresponding byproduct fee categories and some of their names have been abbreviated to better match their counterparts in 10 CFR Part 170. Four new categories proposed for 10 CFR Part 170 have been added, 2A5, 3R1, 3R2 and 3S. The Hourly Rate for Full Cost* licenses has been revised as well as the NRC weighting factor (footnote ³) for fees not listed. The Radiation Protection Act 1984-147 (Act 147) now directs that fees be reviewed every three years. These fees, to be effective July 2008, were last revised in 2001. The proposed fees reflect increases in program costs and expenses from program expansion.

FEE OBJECTIVE: Completely cover the costs of licensing and inspecting about 925 radioactive materials licenses for the use of NARM and, upon attaining Agreement State status, byproduct materials. The program elements requiring support are the Radioactive Materials Licensing Section and Decommissioning Section of BRP, which are located in the Rachel

Carson Building, Harrisburg, and inspection staff in the DEP Regional Offices. The current materials program will at a minimum double in size and complexity. Staff will increase proportionally and require specialized training to meet agreement State requirements. The program has to maintain an inventory of specialized radiation survey and analytical equipment for fieldwork, and utilize a sophisticated radiation laboratory to support environmental surveillance and decommissioning surveys of licensed locations and other sites contaminated by radioactive materials.

FEE RELATED ACTIVITIES AND COSTS

1. Detailed review of license proposals including facility design, operating procedures and radiation safety procedures.
2. Inspections of the facility within the first year of licensing to ensure that the design and procedures are followed.
3. Periodic and on-demand inspections throughout operational life. Normal intervals are 1-5 years.
4. Technical and legal investigation of the basis for violations, overexposures and contamination as needed.
5. Special staff training, periodic retraining.
6. Additional specialized technical equipment, calibrations and radiation laboratory sample analysis.
7. Augmentation of technical, management, administrative and clerical staff.
8. Support for augmented staff (computers, cars, work stations, file keeping etc.)

ANALYSIS: The Energy Policy Act of 2005 gave the Nuclear Regulatory Commission (NRC) authority over accelerator produced radioactive material and discrete sources of radium formerly under the control of state programs. NRC already regulates most radioactive material (byproduct, source and special nuclear.) State programs have until August of 2009 to enter into an agreement to take over NRC's responsibility for licensing radioactive material or else lose the state's NARM licensing program. The Department signed an agreement with the NRC effective March 31, 2008. The Department's Bureau of Radiation Protection (BRP) presently has about 480 NARM licenses. These licenses are renewed on a 10-year cycle and inspected at 4-year intervals. As an Agreement State, after combining state and NRC licenses, this number will double.

The state radioactive material license fee categories have been patterned after the NRC so as to facilitate assimilation of the NRC licenses and make transition easier for the licensees who are already familiar with the NRC system. NRC is in the process of adding additional license fee categories to their regulations to go along with their newly acquired authority to exclusively regulate accelerator produced radioactive material and radium. Many licensees of the NRC currently have licenses from the BRP for those materials. Where those licenses are of the same category, it is our intention to combine them. Unlike licenses of the Nuclear Regulatory Commission that are charged an application fee or renewal fee and an annual fee, licenses issued by BRP have only an annual fee. Because of these two factors and the proposed fees being generally less than the corresponding NRC fee, overall, Pennsylvania radioactive material licensees costs will be lower under the proposed state fee program than under the NRC's licensing program. These fees will also be fixed for at least three years.

Based on a comprehensive workload analysis of the Radiation Control Program, including the additional responsibilities associated with achieving and maintaining Agreement State Status, the Department is proposing increases to the Radiation Control fees to cover program costs, including increases in salaries, benefits and operational expenses (including information technology, training, lab services and equipment costs). The figures below set forth the costs that are associated with the Radiation Control Program from the present date until 2011. The personnel costs are representative of the staff (pay grade specific salary + benefits/per position) needed to perform radioactive material licensing and inspection work to achieve and maintain Agreement State status (i.e., radioactive materials licensing and inspection of approximately 925 facilities). Salary, benefits and operational expenses itemized below reflect a 30% increase since 2001. Given the current mandated union contract, these personnel costs are expected to increase about 20% over the next four years.

As indicated in the table below, the estimated costs for the Bureau of Radiation Protection staff to perform radioactive material licensing and inspection work is \$4,103,520, assuming the finalization of Agreement State Status. In FY 08/09, accounting for the assumed effectuation of the proposed fee increase and Agreement State

Status, total revenue is expected to be \$4,082,620. Therefore, the projected amount collected in revenue is estimated to cover the costs of the program.

Radioactive Material Licenses – Anticipated Expenses

Anticipated Expenses	\$ Applicable to FY 07/08	\$ Applicable to FY 08/09	\$ Applicable to FY 09/10	\$ Applicable to FY 10/11
Personnel Costs	\$ 3,206,124	\$ 3,376,440	\$ 3,556,218	\$ 3,781,812
IT Charges (Including Computer Maintenance, eFACTS upgrades, etc.)	194,220	219,120	161,850	174,300
Specialized Equipment (Including Calibration Costs, etc.)	263,940	251,490	199,200	104,180
Specialized Training	169,320	169,320	99,600	99,600
Lab Services/Consultants	87,150	87,150	87,150	87,150
TOTAL	\$ 3,920,754	\$ 4,103,520	\$ 4,104,018	\$ 4,247,042

RECOMMENDATION AND COMMENT: Approve the proposed regulations. The Radiation Protection Advisory Committee (RPAC), which includes representatives of medical, research and industrial licensees reviewed the proposed regulations and recommended they be proposed. The proposed fees are generally less than the corresponding fees of the Nuclear Regulatory Commission (NRC). If Agreement State is not achieved by August of 2009, the NRC assumes authority of NARM licenses and NARM licensees will be subject to the NRC’s license fee schedule in 10 CFR Part 170.

Current:

APPENDIX A
Fees for Radioactive Material Licenses

<i>Fee Category^{5,6}</i>	<i>Description</i>	<i>Annual Fee (\$)^{1,2,3,4,7}</i>
1C	Special Nuclear Material Sealed Source Gauges (X-Ray Fluorescence)	875
1D	Special Nuclear Material—Other	2,475
2B	Source Material as Shielding	450
2C	Source Material—Other (not 11e2)	8,650
3A1	Manufacturing & Distribution Commercial Broad Scope—10 CFR 30, 33	19,875
3A2	Manufacturing & Distribution Commercial Broad Scope—NARM Only	4,000
3B1	Manufacturing & Distribution Commercial Specific License—10 CFR 30	4,650
3B2	Manufacturing & Distribution Commercial Specific License—NARM Only	2,000
3C1	Manufacturing & Distribution Pharmaceuticals—10 CFR 32.72—32.74	11,650
3C2	Manufacturing & Distribution Pharmaceuticals—NARM Only	4,000
3D1	Pharmaceuticals—Distribution Only—10 CFR 32.7x	2,825
3D2	Pharmaceuticals—Distribution Only—NARM Only	2,000
3E	Irradiator—Shielded Source	2,575
3F	Irradiator—Unshielded < 10kCi	4,300
3G	Irradiator—Unshielded >= 10kCi	10,750
3I	Distribution As Exempt—No Review of Device	3,525
3J	Distribution—SSD Devices to Part 31 GLs	1,550
3K	Distribution—No Review-Exempt Sealed Source	1,300
3L1	Research & Development Broad Scope	8,300
3L2	Research & Development Broad Scope—NARM Only	2,000
3M1	Research & Development	3,650
3M2	Research & Development—NARM Only	750
3N	Services other than Leak Testing, Waste Disposal or Calibration	3,875
3O	Radiography	10,850
3P1	Other Byproduct Material	1,900
3P2	NARM Licenses not covered elsewhere	750

3Q	Generally Licensed Devices under § 217.143 (relating to certain measuring, gauging or controlling devices)	315
4A	Waste Storage, Processing or Disposal	Full Cost *
4B	Waste Packaging or Repackaging	8,175
4C	Waste Receipt of Prepackaged for Disposal	6,125
5A	Well Logging & Non Field Flood Tracers	7,500
5B	Well Logging Field Flood Tracer Studies	Full Cost *
6A	Nuclear Laundry	14,250
7A	Human Use—Teletherapy	11,275
7B1	Human Use—Broad Scope (except Teletherapy)	19,975
7B2	Human Use—Broad Scope (except Teletherapy)— NARM Only	2,000
7C1	Human Use—Specific License (except Teletherapy)	4,300
7C2	Human Use—Specific License (except Teletherapy)— NARM Only	750
8A1	Specifically licensed sources used in static eliminators, nonexempt smoke detectors, fixed gauges, dew pointers, calibration sources, civil defense uses or in temporary (2 years or less) storage	875
8A2	Specifically licensed NARM sources used in static eliminators, nonexempt smoke detectors, fixed gauges, dew pointers, calibration sources, civil defense uses or in temporary (2 years or less) storage	200
14	Decontamination, Decommissioning, Reclamation or Site Restoration	Full Cost *
16A	Reciprocity (180 days/year)	900
16B	Reciprocity—NARM (180 days/year)	300
SB1 ⁵	Small Business—Category 1	2,100
SB2 ⁶	Small Business—Category 2	400

¹ A license may include as many as four noncontiguous sites at the base fee. Sites that are within 5 miles of the main Radiation Safety Office where the license records are kept will be considered contiguous. An additional fee of 25% of the base fee will be added for each noncontiguous site above four.

² All fees for NARM licenses will be effective upon publication of the final rules in the *Pennsylvania Bulletin*. The fees for NRC licenses that are transferred to the Commonwealth will be effective on the next license anniversary date. NARM licenses will be changed to the corresponding category of byproduct material license on the next license anniversary date after achievement of Agreement State status and fees adjusted at that time. The NARM license categories will cease to exist one year after Agreement State status is achieved.

³ Annual fees for categories of NRC licenses that are not included in this table will be calculated as follows: PA Fee = 0.7 (NRC Annual Fee + 0.10 NRC Application or Renewal fee).

⁴ Annual fees charged to holders of transferred NRC licenses with multiple sites will not exceed the fees charged by the NRC for the same licenses in the year of transfer, provided the number of noncontiguous sites remains constant.

⁵ Small Businesses Not Engaged in Manufacturing, and Small Not-For-Profit Organizations with Gross Annual Receipts of more than \$350,000 and less than \$5 million; Manufacturing Entities that have an average of 35—500 employees with Gross Annual Receipts of more than \$350,000 and less than \$5 million; Small Government Jurisdictions (including publicly supported, nonmedical educational institutions) with a population between 20,000 and 50,000; and nonmedical Educational Institutions that are not state or publicly supported and have 35—500 employees.

⁶ Small Businesses Not Engaged in Manufacturing, and Small Not-For-Profit Organizations with Gross Annual Receipts of less than \$350,000; Manufacturing Entities that have an average of less than 35 employees and less than \$350,000 in Gross Annual Receipts; Small Government Jurisdictions (including publicly supported nonmedical educational institutions) with a population less than 20,000; and nonmedical Educational Institutions that are not state or publicly supported and have less than 35 employees.

⁷ Full cost recovery licensees and licensees required to provide financial assurance for decommissioning are not eligible for reduced fees under category SB1 or SB2.

* Full cost recovery consists of a professional fee, to cover the activities and support of Department personnel, and any other additional incidental charges incurred, such as related contracted services or laboratory costs. The professional fee component (Hourly Rate) is \$50 per hour. Other costs are recovered at 100% of actual cost. Invoices shall be issued by the Department at regular intervals but at least quarterly when net costs are incurred.

Proposed:

**APPENDIX A
Fees for Radioactive Material Licenses**

<i>Fee Categor y^{5,6}</i>	<i>Description</i>	<i>Annual Fee (\$)^{1,2,3,4,7}</i>
1C	Special Nuclear Material Sealed Source Gauges (X-Ray Fluorescence)	2,100
1D	Special Nuclear Material—Other	5,800
2A(2)(c)	Source Material – Metal Extraction	90,200
2A5	Removal of Radioactive Contaminants from Drinking Water	11,200
2B	Source Material as Shielding	750
2C	Source Material—Other (not 11e2)	13,400
3A	Manufacturing & Distribution Commercial Broad Scope—10 CFR 30, 33	29,100
3B	Manufacturing, Refurbishing & Distribution Commercial Specific License—10 CFR 30	8,300
3C	Manufacturing & Distribution Pharmaceuticals—10 CFR 32.72—32.74	11,900
3D	Pharmaceuticals—Distribution Only—10 CFR 32.7x	6,800
3E	Irradiator—Shielded Source	4,200
3F	Irradiator—Unshielded < 10kCi	7,800
3G	Irradiator—Unshielded >= 10kCi	31,200
3I	Distribution As Exempt—No Review of Device	10,700
3J	Distribution—SSD Devices to Part 31 GLs	2,500
3K	Distribution—No Review-Exempt Sealed Source	1,900
3L	Research & Development Broad Scope	15,100
3M	Research & Development	5,600
3N	Services other than Leak Testing, Waste Disposal or Calibration	8,500
3O	Radiography	14,100
3P	Other Byproduct Material not covered elsewhere	2,700
3Q	Generally Licensed Devices under § 217.143 (relating to certain measuring, gauging or controlling devices)	320
3R1	Greater than the General License Limits in 10 CFR 31.12(a)(3), (4) or (5) but not more than ten times those Limits	2,100
3R2	Greater than ten times the General License Limits in 10 CFR 31.12(a)(3), (4) or (5)	2,700
3S	Manufacturing & Distribution Pharmaceuticals—Accelerator Produced Only	11,800
4A	Waste Storage, Processing or Disposal	Full Cost *

4B	Waste Packaging or Repackaging	12,000
4C	Waste Receipt of Prepackaged for Disposal	9,200
5A	Well Logging & Non Field Flood Tracers	4,400
5B	Well Logging Field Flood Tracer Studies	Full Cost *
6A	Nuclear Laundry	28,800
7A	Human Use—Teletherapy	13,700
7B	Human Use—Broad Scope (except Teletherapy)	29,000
7C	Human Use—Specific License (except Teletherapy)	4,900
8A	Specifically licensed sources used in static eliminators, nonexempt smoke detectors, fixed gauges, dew pointers, calibration sources, civil defense uses or in temporary (2 years or less) storage	2,100
14	Decontamination, Decommissioning, Reclamation or Site Restoration	Full Cost *
16	Reciprocity (180 days/year)	1,500
SB1 ⁵	Small Business—Category 1	2,300
SB2 ⁶	Small Business—Category 2	500

¹ A license may include as many as four noncontiguous sites at the base fee. Sites that are within 5 miles of the main Radiation Safety Office where the license records are kept will be considered contiguous. An additional fee of 25% of the base fee will be added for each noncontiguous site above four.

² All fees will be effective upon publication of the final rules in the *Pennsylvania Bulletin*. The fees for NRC licenses that are transferred to the Commonwealth at the time of the Agreement will be invoiced on the licenses' next anniversary date and include a pro-rata adjustment for the interval between the effective date of the Agreement and the license anniversary date. Existing NARM licenses will be changed to the corresponding category of byproduct material license in Appendix A upon publication of the final rule.

³ Annual fees for categories of NRC licenses that are not included in this table will be calculated as follows: PA Fee = NRC Annual Fee + 0.10 NRC Application or Renewal fee.

⁴ Annual fees charged to holders of transferred NRC licenses with multiple sites will not exceed the fees charged by the NRC for the same licenses that are in effect in the year of transfer, provided the number of noncontiguous sites does not increase.

⁵ Small Businesses Not Engaged in Manufacturing, and Small Not-For-Profit Organizations with Gross Annual Receipts of more than \$350,000 and less than \$5 million; Manufacturing Entities that have an average of 35—500 employees with Gross Annual Receipts of more than \$350,000 and less than \$5 million; Small Government Jurisdictions (including publicly supported, nonmedical educational institutions) with a population between 20,000 and 50,000; and nonmedical Educational Institutions that are not state or publicly supported and have 35—500 employees.

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