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Statutory Authority: 44-93-10 et seq. and 48-2-10

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Status: Withdrawn due to end of two-year session

Subject: Environmental Protection Fees (Radioactive Material Licenses Fees)

History: 4132

By Date Action Description Jt. Res. No. Expiration Date

- 06/25/2010 Proposed Reg Published in SR

- 01/11/2011 Received by Lt. Gov & Speaker 05/11/2011

H 01/12/2011 Referred to Committee

S 01/13/2011 Referred to Committee

H 03/09/2011 Resolution Introduced to Disapprove 3897

 Sponsored by Reps. Stringer and

 Ballentine

S 05/05/2011 Committee Request Assessment Report

 120 Day Period Tolled

- 06/08/2012 Withdrawn due to end of two-year session

Document No. 4132

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-93-10 et seq. and 48-2-10

61-30. Environmental Protection Fees

**Synopsis**:

Regulation 61-30 prescribes those fees applicable to applicants and holders of permits, licenses, certificates and certifications, and establishes schedules for timely action on permit applications. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation of applicability. This amendment of R.61-30 increases fees for specific Radioactive Material Licenses.

A Notice of Drafting for this amendment was published in the State Register on March 26, 2010. See section-by-section discussion of revisions below and also a fiscal impact statement and a statement of need and reasonableness provided herein.

Section-by-Section Discussion of Revisions:

SECTION CITATION AND EXPLANATION OF CHANGE

61-30.G(5)(i)

Radioactive materials licenses – fee increase for irradiator (unshielded)

61-30.G(5)(j)

Radioactive materials licenses – fee increase for irradiator (self-contained)

61-30.G(5)(k)

Radioactive materials licenses – fee increase for large quantity source and corrects typo

61-30.G(5)(l)

Radioactive materials licenses – fee increase for industrial radiography (in-plant only)

61-30.G(5)(m)

Radioactive materials licenses – fee increase for industrial radiography (temporary field site)

61-30.G(5)(n)

Radioactive materials licenses – fee increase for general license for distribution

61-30.G(5)(o)

Radioactive materials licenses – fee increase for medical institution

61-30.G(5)(p)

Radioactive materials licenses – fee increase for teletherapy

61-30.G(5)(q)

Radioactive materials licenses – fee increase for industrial gauges

61-30.G(5)(r)

Radioactive materials licenses – fee increase for laboratories-commercial/medical

61-30.G(5)(s)

Radioactive materials licenses – fee increase for educational institution

61-30.G(5)(t)

Radioactive materials licenses – fee increase for nuclear pharmacy

61-30.G(5)(u)

Radioactive materials licenses – fee increase for medical private practice

61-30.G(5)(v)

Radioactive materials licenses – fee increase for portable gauges

61-30.G(5)(w)

Radioactive materials licenses – fee increase for gas chromatograph

61-30.G(5)(x)

Radioactive materials licenses – fee increase for services/consultants

61-30.G(5)(y)

Radioactive materials licenses – fee increase for bone mineral analyzer

61-30.G(5)(z)

Radioactive materials licenses – fee increase for eye applicator

61-30.G(5)(aa)

Radioactive materials licenses – fee increase for medical/academic broad license

61-30.G(5)(bb)

Radioactive materials licenses – fee increase for well logging

61-30.G(5)(cc)

Radioactive materials licenses – fee increase for mobile scanning services

61-30.G(5)(dd)

Radioactive materials licenses – fee increase for decontamination/nuclear laundry

61-30.G(5)(ee)

Radioactive materials licenses – fee increase for all other

61-30.G(5)(ff)

Add section for general licensee registrant fee. (Previously incorporated in (5)(q). Industrial Gauges.) No fee increase.

**Instructions:**

Revise R.61-30.G(5) pursuant to the instruction with the text below.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

**Revise R.61-30.G(5)(i) through G(5)(ee) and add new G(5)(ff); due to the number of amendments, replace 61-30.G(5) in entirety, to read:**

G.(5) Radioactive materials licenses including reciprocity and general licenses specified in R.61-63.

 (a). Low-Level Radioactive Waste Shallow Land Disposal $600,000

 (b). Low-Level Waste Interim On Site Storage & Processing:

 (i). Solid Components Only $7,500

 (ii). Combination Waste Streams $15,000

 (c). Low-Level Waste Processing Services:

 (i). Less than 200 FT3/year $15,000

 (ii). Greater than 200 FT3/year $75,000

 (d). Low-Level Waste Consolidation Services $37,500

 (e). Decontamination, Recycling, Pilot Study Services &

 Contaminated Equipment Storage (Non-waste) $4,500

 (f). Decommissioned Facility:

 (i). Test Reactor $750

 (ii). Non Fuel Cycle $750

 (iii). Fuel Cycle $7,500

 (g). Natural Occurring from Processes $750

 (h). Radioactive Material Manufacturing/Processing $40,500

 (i). Irradiator (Unshielded) ~~$5,994~~ $14,350

 (j). Irradiator (Self-contained) ~~$313~~ $1,500

 (k). Large Quantity Source Material ~~$1,250~~ $5,050

 (l). Industrial Radiography (In-Plant only) ~~$1,119~~ $2,900

 (m). Industrial Radiography (Temporary Field Site) ~~$1,344~~ $2,900

 (n). General License for Distribution ~~$806~~ $900

 (o). Medical Institution ~~$707~~ $1,150

 (p). Teletherapy ~~$1,000~~ $5,600

 (q). Industrial Gauges ~~$344~~ $700

 (r). Laboratories-Commercial/Medical ~~$325~~ $700

 (s). Educational Institution ~~$407~~ $700

 (t). Nuclear Pharmacy ~~$1,244~~ $3,250

 (u). Medical Private Practice ~~$588~~ $1,150

 (v). Moisture/Density Gauge ~~$325~~ $700

 (w). Gas Chromatograph ~~$188~~ $700

 (x). Services/Consultants ~~$207~~ $700

 (y). Bone Mineral Analyzer ~~$432~~ $700

 (z). Eye Applicator ~~$432~~ $700

 (aa). Medical/Academic Broad License ~~$2,313~~ $5,600

 (bb). Well Logging ~~$1,125~~ $1,700

 (cc). Mobile Scanning Services ~~$675~~ $1,150

 (dd). Decontamination/Nuclear Laundry ~~$4,375~~ $10,250

 (ee). All other ~~$338~~ $700

 (ff). General License Registrants $344

**Fiscal Impact Statement**:

No additional cost will be incurred by the State or its political subdivisions by the implementation of this amendment. Existing staff and resources will be utilized to implement this amendment to the regulation. The amendment will create additional costs to the regulated community because of increased licensing fees.

**Statement of Need and Reasonableness:**

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-30, Environmental Protection Fees, was promulgated June 23, 1995, pursuant to the Environmental Protection Fund Act of 1993, S.C. Code Section 48-2-10 et seq. This regulation prescribes those fees applicable to applicants and holders of permits, licenses, certificates and certifications, and establishes schedules for timely action on permit applications. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation of applicability.

Purpose: This amendment of R.61-30 increases fees for Radioactive Materials Licenses and reciprocity licensees.

Legal Authority: S.C. Code Sections 48-2-10 and 44-93-10 et seq. and Atomic Energy and Radiation Control Act 13-7-45 et seq.

Plan for Implementation: The amendments would be incorporated within R.61-30 upon approval of the Board of Health and Environmental Control, the General Assembly, and publication in the State Register. The amendments will be implemented in the same manner in which the existing regulation is implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

South Carolina is a U.S. Nuclear Regulatory Commission (NRC) Agreement State, and as such, the NRC has relinquished authority to the State to regulate the use of radioactive materials. With the advent of increased terrorist threats against the U.S. in recent years, the NRC has implemented numerous additional security requirements governing the possession, use and disposal of radioactive material. These regulatory amendments are required to be adopted by Agreement States and thus the associated cost to implement is also incurred. The most significant to date are the Increased Controls (IC’s) requirement and the National Source Tracking System (NSTS). These requirements place additional responsibilities on staff and cause an increased need for program resources. Pre-licensing visits/inspections as well as actual license delivery visits are now an additional part of the Bureau’s responsibility.

The Department is required by statute, Section 13-7-45, S.C. Code, to set and collect fees “sufficient, in the judgment of the department, to protect the public health and safety and the environment and to recover the costs incurred by the department in regulating the use of ionizing radiation.” Due to increased NRC requirements, inflation, and cuts in State appropriations, the department no longer collects fees sufficient to cover the costs of the program. Therefore, increased fees are needed.

DETERMINATION OF COSTS AND BENEFITS:

Radioactive Material Licensees are charged an annual fee according to the various categories of facilities. These fees are based on the U.S. Nuclear Regulatory Commission’s fee schedule. Historically, Agreement State fees are substantially lower than the NRC’s fees. The last time Radioactive Material Licensing Fees were increased in this state was 2003. These fees will increase South Carolina’s fees to 50% of the NRC’s current fee schedule. This will be an across the board increase, including fees for reciprocity. There is a benefit to radioactive materials licensees with the increased fees. If South Carolina were to lose its agreement state status due to inadequate funding of the state program, licensing of radioactive materials would revert to the NRC and the licensing fees would be twice what the amended fees are. In addition, licensing would occur at the federal level, rather than the state level, leading to decreased ability of regulated facilities to interact with regulatory staff and less opportunity to influence regulatory decisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties associated with these amendments to R. 61-30.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH**:**

There is no effect on the environment or public health from increasing fees for radioactive material licenses.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

A greater risk of public exposure exists if the program is not able to carry out timely and thorough inspections with a well trained staff of inspectors. Federal law and NRC’s Agreement State Program requires the department to operate at a specific level of activity and with trained personnel.

**Statement of Rationale:**

The fee increases will allow the Department to collect enough fees to cover the program, as required by the statute, while keeping the license fees at 50% of the U.S. NRC’s fees for an identical license. If the Department does not collect and retain enough fees to adequately fund the program, South Carolina is at risk of losing its Agreement State status with the NRC. If this occurs, licensing fees will automatically be assessed on the NRC’s fee schedule, which is 100% more than the fee increases addressed in these amendments. Therefore, these fees are needed and reasonable.