

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
		Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/30/2014

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
26	12	03	01,.02,.03,.04

3. Name of Promulgating Authority

Department of the Environment

4. Name of Regulations Coordinator	Telephone Number
Carolyn A Jones	410-537-4210

Mailing Address

1800 Washington Blvd

City	State	Zip Code
Baltimore	MD	21230

Email
carolyna.jones@maryland.gov

5. Name of Person to Call About this Document	Telephone No.
Michael D. Kurman	410-537-3208

Email Address
michael.kurman@maryland.gov

6. Check applicable items:
 New Regulations

DEPARTMENT OF THE ENVIRONMENT

Subtitle 12 RADIATION MANAGEMENT

26.12.03 State Radiation Control Fund

Authority: Environment Article, §§8-301(b)(1)(iii), 8-301(c), 8-304(c), and 8-306, Annotated Code of Maryland

Notice of Proposed Action

□

The Secretary of the Environment proposes to amend Regulations .01 through .04 under COMAR 26.12.03 State Radiation Control Fund.

Statement of Purpose

The purpose of this action is to cap any Consumer Price Index annual increase for certain categories of radioactive material license fees to no greater than that published by the Department of Labor, rounded to the nearest higher one dollar. Additionally, for one radioactive material license fee category, this action will decrease the amount of the annual fee.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

These regulations will benefit a small number of radioactive material licensees who will no longer be subject to an annual fee adjustment based on a change in the Consumer Price Index rounded to the nearest higher hundred-dollar increment. For licensees with a 2011 base annual fee of \$1,000 or less, beginning the effective date of this regulation the annual fee adjustment based on a change in the Consumer Price Index will be rounded to the nearest higher one dollar increment. This will result in a collective savings to these licensees of approximately \$4,156 in the first year if the Cost of Living increases by 2.5%.

These regulations will also reduce the cost of a radioactive material license for portable lead paint analyzers to a revised base fee of \$750. This will result in savings for all such licensees totaling approximately \$31,200 in the first year.

Revenues to the Department will be reduced by approximately \$35,356.

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R-)	\$35,356

- B. On other State agencies: NONE
 C. On local governments: NONE

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$35,356
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Regulation change to be effective January 1, 2015 will result in reduction in revenues to the Department by approximately \$35,356 in Calendar Year 2015 if the Cost of Living increases by 2.5% and the number of licensees remains the same.

D. Regulation change to be effective January 1, 2015 will result in a lower Cost of Living increase for 13 categories of radioactive material license and will result in a decrease in the cost of a radioactive material license for portable lead paint analyzers. Collective fees reduction for affected licensees is estimated at \$35,356 in Calendar Year 2015.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

This action will reduce the radioactive material license fee for portable lead paint analyzers. This equipment is normally used by small businesses to test residential and commercial properties for lead paint. The existing annual fee escalation to the nearest \$100 during the current prolonged period of low inflation is making it more difficult for the smallest of these licensees to continue this service, which is essential in identifying this specific public health hazard. Reduction of the fee will make it financially easier for these licensees to continue this service.

Additionally, for a small number of licensees with a base Calendar Year 2011 license fee of \$1,000 or lower, the provision requiring Cost of Living rounding to the nearest higher hundred dollars will be changed to rounding to the next higher one dollar. Most such licensees are small businesses. These two changes currently affect 107 of a total of 544 radioactive material licensees.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael D. Kurman, Regulations Coordinator, Radiological Health Program, Air and Radiation Management Administration, Maryland Department of the Environment, 1800 Washington Boulevard, Suite 750, Baltimore, Maryland 21230,

or call 410-537-3208, or email to michael.kurman@maryland.gov, or fax to 410-537-3198. Comments will be accepted through June 30, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Special Funds (State Radiation Control Fund)

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

26.12.03.00 Downloaded December 4, 2013

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 12 RADIATION MANAGEMENT

Chapter 03 State Radiation Control Fund

Authority: Environment Article, §§8-301(b)(1)(iii), 8-301(c), 8-304(c), and 8-306, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Calendar year 2011 base" or "CY 2011 Base" means the base year fee from Calendar Year 2011. The base year fee is adjusted annually in accordance with the Consumer Price Index as provided in Regulation .04 of this chapter.

[(1)] (2) "Facility" means the location at which one or more sources of radiation are:

(a) – (b) (text unchanged)

(3) "Group" means the classification of radiation machine established by COMAR 26.12.02.02B.

[2] – [7] are renumbered as (4) – (9)

.02 Fee Required.

A. – H. (text unchanged) A. — D.

I. Sealed Source and Device Registration Fees.

(1) Each holder of a Maryland-issued sealed source and device registration sheet shall pay an annual fee [of \$1,600 per source or device registration sheet] *in accordance with Table 4 of Regulation .03 of this chapter as adjusted each year in accordance with the Consumer Price Index as provided in Regulation .04 of this chapter.* This fee shall be paid on or before the first day of the month of the initial issuance date of the registration sheet or sheets.

(2) Application fees for evaluating requests for new or modified in entirety sealed source and device registration sheets shall be in accordance with Table 4 of Regulation .03 of this chapter *as adjusted each year in accordance with the Consumer Price Index as provided in Regulation .04 of this chapter* and shall be paid upon application.

J. Annual General License Fees. Each person as defined in §A.2 of the Regulations for the Control of Ionizing Radiation who possesses radioactive material under the provisions of a general license in §C.22(a), (d), and (e) of the Regulations for the Control of Ionizing Radiation shall pay [an] *a calendar year 2011 base* annual fee of \$100 *as adjusted each year in accordance with the Consumer Price Index as provided in Regulation .04 of this chapter.*

.03 Fee Schedule.

A. Table 1—Past Due Fees for Unregistered Facilities.

Machine Type	Past Due Fee CY 2011 Base (Per Tube, Per Year Without Registration*)
Group 1 or Group 2 (Accelerator)	\$4,000
Group 3 (Hospital)	1,000
Group 4 (General Medical)	1,000
Group 5 (Other Medical and Industrial)	1,000
Group 6 (Dental)	80
Group 7 (Veterinary)	1,000
Group 8 (Mammography)	1,000

*The term "year without registration" means any year or fraction of a year that a facility was in operation in violation of Section B.5 of the Regulations for the Control of Ionizing Radiation [(1994)].

B. Table 2—Radiation Machine Fees.

Machine Type	CY 2011 Base Biennial Fee Per Tube	CY 2011 Base Annual Installment
Group 1 or Group 2 (Accelerator)	\$1,600	\$800
Group 3 (Hospital)	400	200
Group 4 (General Medical)	400	200
Group 5 (Other Medical and Industrial)	400	200
Group 6 (Dental)	—	80
Group 7 (Veterinary)	400	200
Group 8 (Mammography)	400	200

C. Table 3—Fees for Specific Radioactive Material Licenses and Reciprocity.

	<i>CY 2011</i>	
Code*	<i>Base</i> Annual Fee	Definition
01100	\$2,600	Academic Type A Broad
01120	1,600	Academic Type C Broad
01200	1,600	Academic Other
02110	2,600	Medical Institution Broad
02120	1,600	Medical Institution Other—Group
02200	1,600	Medical Private Practice—Group, Quality Mgt Plan Req'd.
02201	1,600	Medical Private Practice—Group, No Quality Management Plan Req'd.
02220	2,300	Mobile Medical Van
02300	1,600	Teletherapy
02301	800	Brachytherapy
02302	1,600	Remote Afterloader
02304	2,300	Gamma Knife
02305	14,100	Manufacturing and Distribution, Sealed Sources, Irradiators and Human Use
02306	5,000	Manufacturing and Distribution, Sealed Sources, Human Use Only
02400	1,600	Veterinary—Nonhuman
02410	900	In Vitro Testing Lab, Specific License
02500	2,300	Nuclear Pharmacy
02513	5,000	Distribution, Medical Sources and Devices
03110	2,300	Well Logging
03120	1,000	Measuring Systems, Fixed Gauges
03121	1,600	Measuring Systems, Portable Gauges
03122	1,000	Measuring Systems, Analytical Gauges
03123	1,000	Measuring Systems, Gas Chromatograph
03124	1,000	Measuring Systems, Other
03125	1,000	Lixiscope
03126	[1,000] 750**	Portable Lead Paint Analyzers
03214	700	Manufacture and Distribution (Exempt 10 CFR §30.15)

03220	1,600	Leak Test Services Only
03221	1,600	Instrument Calibration Services Only
03223	1,600	Leak Test and Calibration
03225	1,600	Other Health Physics Services
03232	3,600	Waste Disposal Services, Prepackaged
03235	3,600	Incinerator, Noncommercial
03240	1,600	General License Distribution, Devices
03244	1,600	General License Distribution, In Vitro Materials
03245	1,600	Specific License Distribution—Non-Medical
03250	700	Exempt Concentration Distribution
03255	700	Exempt Distribution, Gas and Aerosol Detectors
03310	2,300	Industrial Radiography, Fixed
03320	2,800	Industrial Radiography, Temp. Job Sites
03510	1,600	Irradiators, Self-Shielded <10,000 curies
03511	1,600	Irradiators, Other <10,000 curies, Animal Use
03512	1,600	Irradiated Material
03520	2,200	Irradiators, Self-Shielded >10,000 curies
03521	3,600	Irradiators, Other >10,000 curies, Pool Type
03620	1,600	Research and Development
03710	700	Civil Defense
11210	1,600	Source Material, Shielding
11220	1,600	Source Material, Military Testing
22120	1,600	SNM Plutonium, Neutron Source
22130	2,300	Power Sources, SNM and/or Rad Material
22160	700	Pacemaker
26000	700	Radium

*Code refers to the classification used by Maryland to identify a specific area of radioactive material use.

***Revised fee amount is CY 2015 base fee and is effective January 1, 2015.*

D. Table 4—Fees for Sealed Source and Device Sheets.

SS & D Type	Scope	CY 2011 Base	CY 2011 Base Application	CY 2011 Base Modification
-------------	-------	-----------------	-----------------------------	------------------------------

		Annual Fee ³	Fee ³	Fee
Sealed Sources	Multiple User ¹	\$1,600	\$2,500	\$1,200
	Individual User ²	1,600	900	500
Device	Multiple User ¹	1,600	8,200	4,100
	Individual User ²	1,600	900	500

¹Manufactured in a non-custom design for distribution to multiple users.

²Manufactured and customized for an individual user and a unique purpose. ³The application fee includes the annual fee for the first year of use following agency approval.

.04 Consumer Price Index Adjustment.

A. – B. (text unchanged)

C. For radioactive materials licensees *with a calendar year 2011 base fee greater than \$1,000* and sealed source and device sheets, each annual fee adjustment to reflect a change in the Consumer Price Index will be rounded to the nearest higher hundred-dollar increment. *For radiation machine fees except dental fees, for general license fees, and for those radioactive material licensees with a calendar year 2011 base fee of \$1,000 or less, each annual fee adjustment to reflect a change in the Consumer Price Index will be rounded to the nearest higher one-dollar increment.*