

DEPARTMENT : Health

STATE OF MINNESOTA

Office Memorandum

DATE : June 25, 1990

TO : Legislative Commissioner to Review Administrative Rules
Room 55 State Office Building
100 Constitution Avenue, St. Paul, Minnesota

FROM : Jane A. Nelson, rules coordinator
Environmental Health Division
Minnesota Department of Health

PHONE : 627-5038

SUBJECT : Submission of Statement of Need and Reasonableness pursuant to
Minnesota Statutes, sections 14.131 and 14.23

In accordance with the above matter, the Minnesota Department of Health is submitting to you the Statement of Need and Reasonableness on proposed fees governing the registration of sources of ionizing radiation. This rule is scheduled for publication in the State Register July 9, 1990 and would go to hearing, if necessary, August 17.

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

**IN THE MATTER OF THE PROPOSED
AMENDMENTS TO MINNESOTA
RULES, PART 4730.0600
GOVERNING REGISTRATION FEES
FOR SOURCES OF IONIZING RADIATION**

**STATEMENT OF NEED
AND REASONABLENESS**

Amendments to Minnesota Rules, part 4730.0600 are being proposed to increase the fees required under Minnesota Statutes, section 144.121 for the periodic radiation safety inspections of x-ray tubes, radium sources and linear accelerators. The amount of fees charged must comply with Minnesota Statutes, section 144.122 which requires that: "The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program."

LEGAL BASIS

Authority for the proposed amendments is found in Minnesota Statutes, sections 141.12, subdivision 1, paragraph (15); 144.121, subdivision 1; and 144.122, paragraph (a).

COSTS OF IMPLEMENTATION TO LOCAL GOVERNMENT

If the adoption of a rule by an agency requires the expenditure of public moneys by local public bodies, Minnesota Statutes, section 14.11, subdivision 1, requires the agency to give a reasonable estimate of the total cost to all local bodies in the state to implement the rule for the two years immediately following adoption of the rule, if the estimated cost exceeds \$100,000 in either of the two years. In accordance with Minnesota Statutes, section 3.982, a fiscal note has been prepared on the costs to local agencies and school districts and is available to the public on request.

The increased fees proposed in part 4730.0600 which apply to school districts and local and county-funded facilities with x-ray machines, radium sources and linear accelerators will not cost local public bodies more than \$100,000 in either of the two years following adoption of the rule. Based on Department calculations for facilities with registered sources of ionizing radiation, the net increase in costs for the two years following adoption of the proposed fee rule would be approximately \$16,500 in each of the two years following adoption of the proposed rule.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115 requires that an agency consider five factors for reducing the impact of proposed rules on small business. The proposed amendments will have an impact on such small businesses as physicians, podiatrists, chiropractors, dentists and veterinarians in single or small group practices who own x-ray equipment, and on the small companies who own sources of radium. Most single practice or small group practices and the companies possessing radium sources meet the statutory definition of small business.

The methods delineated in Minnesota Statutes, section 14.115 for reducing the impact of the rule on small business include:

- a) the establishment of less stringent compliance or reporting requirements for small businesses;
- b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) the consolidation or simplification of compliance or reporting for small businesses;
- d) the establishment of performance standards for small businesses to replace design or operational standards required in rule; and
- e) the exemption of small businesses from any or all the requirements of the rule.

The proposed amendments include a revised fee schedule for the registration of x-ray tubes, sources of radium and linear accelerators.

a) The establishment of less stringent compliance requirements for fees for small businesses is not reasonable because the state's costs of inspecting an x-ray tube, source of radium or linear accelerator are the same regardless of size of the business. The establishment of less stringent reporting requirements does not apply to these amendments.

b) The establishment of less stringent schedules or deadlines for compliance requirements for small business would mean that small businesses would not have to pay registration fees on the same schedule as other registrants. This is not reasonable because the state has to pay its program costs on a specific schedule. The establishment of less stringent schedules for reporting requirements do not apply to these amendments.

c) The consolidation or simplification of compliance or reporting requirements for small businesses is not reasonable because the rules and procedures for complying with the payment of fees are concise and simple, and pose no excess burden on small businesses.

d) The establishment of performance standards for small businesses to replace design or operational standards required in rule does not apply to these amendments since a change in fees is proposed.

e) The exemption of small businesses from any or all requirements of the proposed rule would not be reasonable, since over 97 percent of all the registrants with x-ray tubes and sources of radium meet the definition of small businesses. The Commissioner is responsible for periodic safety inspection of all sources of ionizing radiation.

NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

The Notice of Intent to solicit outside opinion was published in the State Register on February 12, 1990 at 14 S.R. 2014.

NOTICE TO DEPARTMENT OF FINANCE, HOUSE AND SENATE

With regard to the requirements of Minnesota Statutes, section 16A.128, the Department has notified the Department of Finance, the chairs of the Senate Finance Committee and the House Appropriations Committee of the Department's intent to adopt the above entitled matter. A copy of the Department's notice to these parties and the Commissioner of Finance's reply are attached.

NEED FOR AND REASONABLENESS OF AMENDMENTS

The amendments to part 4730.0600 are proposed to revise the current fee schedule to comply with requirements of Minnesota Statutes, sections 144.121 and 144.122.

Minnesota Statutes, section 144.121, subdivision 2, requires that x-ray machines and sources of radium be inspected every four years. Minnesota Statutes, section 144.122 requires that total fees will, where practical, cover the cost of programs. The fees were last adjusted in 1986. A comparison of the revenue generated from the biennial fees charged for registration and inspection of x-ray machines, radium sources and linear accelerators indicates that the existing fee schedule is insufficient to cover the mandated costs. The biennial fee for registration and inspection were originally established by law in 1974 and were incorporated into rule in 1976.

The amount of fee-generated revenue must be increased if program costs are to be covered and the requirement of Minnesota Statutes, section 144.122 is to be met.

PART 4730.0600

Subpart 1. The substantive amendments to this subpart are to the revised fee schedule. The proposed fee schedule has not changed the general categories of fees being charged, except that fluoroscopic x-ray tubes for which no fee had previously been charged, will now be charged a registration fee. The reason for this change is that it takes as long to inspect a fluoroscopic tube as it does to inspect a medical radiographic x-ray tube. Increased fees are proposed for all categories of ionizing radiation, and for the facility base fee. All facilities will pay the increased facility base fee.

The following table illustrates the difference between the current and proposed fees.

Current and Proposed Fees - Registration and Inspection of X-ray machines,
Radium Sources and Linear Accelerators.

	Present Fee	Proposed Fee	Percent Change
Facility base fee	\$40	\$80	+100
Fee Category	Present Fee per tube	Proposed Fee per tube	Percent Change
Dental x-ray tubes	\$25	\$40	+60
Medical, industrial and educational x-ray tubes	40	64	+60
Linear accelerators	50	80	+60
	Present Fee per facility	Proposed Fee per facility	Percent Change
Radium per facility	100	120	+20

The cap on the total amount of fee charged is proposed for repeal to equalize the fee structure. Inspections should be based on the tube or source requiring inspection, not on the size of the business. Facilities with several tubes and sources to inspect should be expected to pay their share based on the amount of equipment and number of machines requiring inspection.

The proposed registration fees are reasonable because they meet the requirement that fees cover the costs of programs if practicable as required by Minnesota Statutes, section 144.122. The following table shows how the increased fees will cover program costs. Subsequent tables show the legislatively authorized staff complement.

Program costs and Revenue - Registration and Inspection of
X-ray Machines, Radium Sources and Linear Accelerators

	1988	1989	1990	1991	1992	1993	1994	1995
Program Costs -								
annual	158	202	278	380	375	384	368	385
biennial	360		658		759		753	
Receipts								
annual	26	157	218	352	385	419	421	423
biennial	183		570		804		844	
Annual difference	(132)	(45)	(60)	(28)	10	35	53	38
Biennial difference	(177)		(88)		45		91	
Accumulated difference (annual)	(3)*	(48)	(108)	(136)	(126)	(91)	(38)	0

*\$129,000 in excess fees at the end of fiscal year 1987 was carried over to 1988.

LEGISLATIVELY AUTHORIZED COMPLEMENT FOR 1990

<u>STAFF</u>	<u>FTE'S</u>	<u>SALARY + FRINGE</u>
Health Physicist 2	.1 FTE	\$5,865
Radiation Specialist 2	1.0 FTE	\$39,637
Radiation Specialist 2	1.0 FTE	\$35,641
Radiation Specialist 2	1.0 FTE	\$33,247
Radiation Specialist 1	1.0 FTE	\$33,247
Radiation Specialist 1	1.0 FTE	\$17,821*
Clerk 3	1.0 FTE	\$26,626
Clerk Typist 3	.75 FTE	\$21,453
* 1/2 year - staff started 1/10/90		
Total		\$213,537
SUPPLIES, EQUIPMENT AND TRAVEL		\$26,870
INDIRECT COSTS @ 15.6%		\$37,503
GRAND TOTAL		\$277,910

LEGISLATIVELY AUTHORIZED COMPLEMENT FOR 1991

<u>STAFF</u>	<u>FTE'S</u>	<u>SALARY + FRINGE</u>
Health Physicist 2	.1 FTE	\$6,220
Radiation Specialist 2	1.0 FTE	\$42,033
Radiation Specialist 2	1.0 FTE	\$37,795
Radiation Specialist 2	1.0 FTE	\$35,257
Radiation Specialist 1	1.0 FTE	\$35,257
Radiation Specialist 1	1.0 FTE	\$37,795
Clerk 3	1.0 FTE	\$28,235
Clerk Typist 3	.75 FTE	\$22,750
Total		\$245,342
SUPPLIES, EQUIPMENT AND TRAVEL		\$83,370
INDIRECT COSTS @ 15.6%		\$51,279
GRAND TOTAL		\$379,991

LEGISLATIVELY AUTHORIZED COMPLEMENT FOR 1992

<u>STAFF</u>	<u>FTE'S</u>	<u>SALARY + FRINGE</u>
Health Physicist 2	.1 FTE	\$6,568
Radiation Specialist 2	1.0 FTE	\$44,429
Radiation Specialist 2	1.0 FTE	\$39,949
Radiation Specialist 2	1.0 FTE	\$37,267
Radiation Specialist 1	1.0 FTE	\$37,267
Radiation Specialist 1	1.0 FTE	\$39,949
Clerk 3	1.0 FTE	\$29,844
Clerk Typist 3	.75 FTE	\$24,046
Salaries include 5.7% inflation factor		
Total		\$259,319
SUPPLIES, EQUIPMENT AND TRAVEL		\$65,370
INDIRECT COSTS @ 15.6%		\$50,467
GRAND TOTAL		\$375,340

LEGISLATIVELY AUTHORIZED COMPLEMENT FOR 1993

STAFF	FTE'S	SALARY + FRINGE
Health Physicist 2	.1 FTE	\$6,942
Radiation Specialist 2	1.0 FTE	\$46,961
Radiation Specialist 2	1.0 FTE	\$42,226
Radiation Specialist 2	1.0 FTE	\$39,391
Radiation Specialist 1	1.0 FTE	\$39,391
Radiation Specialist 1	1.0 FTE	\$42,226
Clerk Typist 3	1.0 FTE	\$31,545
Clerk Typist 3	.75 FTE	\$25,416
5.7% inflation factor on total salaries		
Total salaries		\$274,098
SUPPLIES, EQUIPMENT AND TRAVEL		\$58,370
INDIRECT COSTS @ 15.6%		\$51,865
GRAND TOTAL		\$384,333

LEGISLATIVELY AUTHORIZED COMPLMENT FOR 1994

STAFF	FTE'S	SALARY + FRINGE
Health Physicist 2	.1 FTE	\$7,337
Radiation Specialist 2	1.0 FTE	\$49,519
Radiation Specialist 2	1.0 FTE	\$44,595
Radiation Specialist 2	1.0 FTE	\$41,518
Radiation Specialist 1	1.0 FTE	\$41,518
Radiation Specialist 1	1.0 FTE	\$44,595
Clerk Typist 3	1.0 FTE	\$33,343
Clerk Typist 3	.75 FTE	\$26,865
5.7% inflation factor on total salaries		
Total Salaries		\$289,290
SUPPLIES, EQUIPMENT AND TRAVEL		\$29,370
INDIRECT COSTS @ 15.6%		\$49,711
GRAND TOTAL		\$368,371

LEGISLATIVELY AUTHORIZED COMPLEMENT FOR 1995

<u>STAFF</u>	<u>FTE'S</u>	<u>SALARY + FRINGE</u>
Health Physicist 2	.1 FTE	\$7,755
Radiation Specialist 2	1.0 FTE	\$52,342
Radiation Specialist 2	1.0 FTE	\$47,137
Radiation Specialist 2	1.0 FTE	\$43,885
Radiation Specialist 1	1.0 FTE	\$43,885
Radiation Specialist 1	1.0 FTE	\$47,137
Clerk Typist 3	1.0 FTE	\$35,244
Clerk Typist 3	.75 FTE	\$28,397

5.7% inflation factor on total salaries

Total Salaries	\$305,782
SUPPLIES, EQUIPMENT AND TRAVEL	\$26,870
INDIRECT COSTS @ 15.6%	\$51,894
GRAND TOTAL	\$384,546

STATE OF MINNESOTA
DEPARTMENT OF HEALTH

In the Matter of Proposed Permanent
Rules Governing Ionizing Radiation,
Part 4730.0600, Registration Fees

FISCAL NOTE

Pursuant to Minnesota Statutes, sections 3.982, 14.11 and 15.065, the Minnesota Department of Health has prepared a fiscal note estimating the annual cost of the proposed rule to local agencies and school districts and state public agencies.

Authority to adopt proposed rule part 4730.0600 is contained in Minnesota Statutes, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1; and 144.122, paragraph (a). The proposed rule revises the fees for the registration for all x-ray tubes, linear accelerators and facilities using radium. Minnesota Statutes, section 144.122 requires that total fees must, where practical, cover the cost of programs.

A comparison of the current revenue generated from the biennial fees charged for registration and inspection of x-ray tubes, linear accelerators and facilities using radium indicates that the existing fee schedule is insufficient to cover costs. The revenue generated by fees must be increased to comply with Minnesota Statutes, section 144.122 that requires the Commissioner of Health to set fees so the total fees collected approximate the amount of money needed to administer the program.

MINNESOTA DEPARTMENT OF HEALTH COSTS

The Commissioner of Health under Minnesota Statutes, section 144.121 may set fees for the registration for x-ray machines and sources of radium and is responsible for the periodic safety inspection of sources of ionizing radiation.

Minnesota Statutes, section 144.121, subdivision 2, requires that x-ray machines, linear accelerators and sources of radium be inspected once every four years. Currently there are approximately 10,700 x-ray machines, 20 linear accelerators and 13 facilities using sources of radium registered with the Minnesota Department of Health. The number of x-ray machines registered increased at a rate of six percent over the past three years. In 1986, 9,954 x-ray machines were registered. It is expected that by 1994, 11,450 x-ray machines will be registered by the Department.

Program costs are based on the staff time, travel, safety inspection testing equipment, and support services needed to meet the inspection schedule required by statute and include statewide indirect costs. The current authorized staff inspect an average of 2,050 tubes, accelerators and sources per year. The current legislatively-authorized staffing for the inspection program includes five full time professional positions, ten percent of one professional position, one full time clerical position and a three quarter time clerical position.

The proposed program costs include the addition of state-of-the-art test equipment needed to test parameters of x-ray equipment that frequently changes as more computer operated functions are introduced.

The table below shows program costs for 1991 to 1995.

PROGRAM COSTS 1991 - 1995

<u>Year</u>	1991	1992	1993	1994	1995
<u>Staff</u>	\$245,342	\$259,319	\$274,098	\$289,290	\$305,782
<u>Travel and equipment</u>	83,370	65,370	58,370	29,370	29,370
<u>Indirect costs at 15.6%</u>	51,279	50,467	51,865	49,711	51,894
<u>Total</u>	\$379,991	\$375,340	\$384,333	\$368,371	\$384,546

PROPOSED FEES

Minnesota Statutes, section 16A.128 requires that fees cover the cost of programs. A comparison of the revenue generated from the biennial fees charged for registration and inspection of x-ray machines, radium sources and linear accelerators indicates that the existing fee schedule is insufficient to cover costs. The fees must be increased to comply with the requirement of Minnesota Statutes, section 144.122. The following table shows the relationship between program costs and the revenue generated by the proposed fees.

Program costs and Revenue - Registration and Inspection of X-ray Machines, Radium Sources and Linear Accelerators

	1988	1989	1990	1991	1992	1993	1994	1995
Program Costs -								
annual	158	202	278	380	375	384	368	385
biennial	360		658		759		753	
Receipts								
annual	26	157	218	352	385	419	421	423
biennial	183		570		804		844	
Annual difference	(132)	(45)	(60)	(28)	10	35	53	38
Biennial difference	(177)		(88)		45		91	
Accumulated difference (annual)	(3)*	(48)	(108)	(136)	(126)	(91)	(38)	0

*\$129,000 in excess fees at the end of fiscal year 1987 was carried over to 1988.

COSTS TO OTHER STATE AGENCIES

State facilities such as state hospitals and corrections facilities and schools possessing x-ray machines, linear accelerators or sources of radium are not required by the Department to pay registration fees. Thus, the proposed increase in fees will have no impact on state-owned facilities.

COSTS TO LOCAL GOVERNMENT

If the adoption of a rule by an agency requires the expenditure of public moneys by local public bodies, Minnesota Statutes, section 14.11, subdivision 1, requires the agency to give a reasonable estimate of the total cost to all local bodies in the state to implement the rule for two years immediately following adoption of the rule, if the estimated cost exceeds \$100,000 in either of the two years following adoption of the rule.

Minnesota Statutes, section 3.982 states that a state agency must make available to the public a fiscal note if the state agency estimates any local agency or school district may need to spend more than \$200 to meet the requirements of the proposed rule.

The increased fees proposed in part 4730.0600 which apply to facilities with x-ray machines, radium sources and linear accelerators will not cost local public bodies more than \$100,000 in either of the two years following adoption of the rule. Based on Department calculations for local and county-funded facilities with registered sources of ionizing radiation, the total cost would be approximately \$16,500 in each year following adoption of the proposed rule. To arrive at the net cost increase over two years to local and county-funded facilities, the Department reviewed its records of sources and tubes per facility and calculated the additional charge per facility.



minnesota department of health

division of environmental health

925 s.e. delaware st. p.o box 59040 minneapolis 55459-0040
(612) 627-5100

June 21, 1990

The Honorable Gene Merriam
Minnesota Senate Finance Committee
Room 121
State Capitol Building
St. Paul, Minnesota 55155

Dear Senator Merriam:

Pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, the Department is notifying you of the submission of a permanent rule governing registration fees for sources of ionizing radiation, Minnesota Rules part 4730.0600 to the State Register for publication on July 9, 1990.

Attached to this letter is a copy of the proposed rule, the notices to adopt and the notification to the Commissioner of Finance in accordance with Minnesota Statutes, section 16A.128, subdivision 1a.

If you have any questions about this matter, please contact Jane Nelson at 627-5038 or David Hovet at 623-5072.

Sincerely yours,

Raymond W. Thron
Raymond W. Thron, Ph.D., P.E., Director
Environmental Health Division

RWT:JN:mq

Enclosures



minnesota department of health
division of environmental health

925 s.e. delaware st. p.o box 59040 minneapolis 55459-0040
(612) 627-5100

June 18, 1990

The Honorable Wayne Simoneau
House Appropriations Committee
Room 365
State Capitol Building
St. Paul, Minnesota 55155

Dear Representative Simoneau:

Pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, the Department is notifying you of the submission of a permanent rule governing registration fees for sources of ionizing radiation, Minnesota Rules part 4730.0600 to the State Register for publication on July 2, 1990.

Attached to this letter is a copy of the proposed rule, the notices to adopt and the notification to the Commissioner of Finance in accordance with Minnesota Statutes, section 16A.128, subdivision 1a.

If you have any questions about this matter, please contact Jane Nelson at 627-5038 or David Hovet at 623-5072.

Sincerely yours,

Raymond W. Thron
Raymond W. Thron, Ph.D., P.E., Director
Environmental Health Division

RWT:JAN:mq

Enclosures

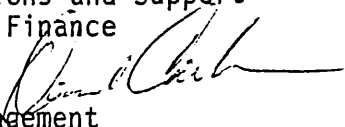
DEPARTMENT : Health

STATE OF MINNESOTA

Office Memorandum

DATE : June 13, 1990

TO : Bruce Reddemann, director
Budget Operations and Support
Department of Finance

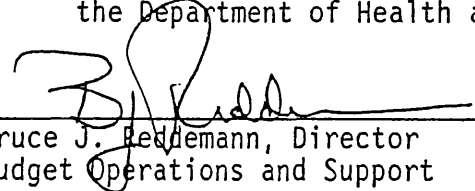
FROM : David Carlson 
Financial Management

PHONE : 623-5077

SUBJECT : Review of Rules Governing Ionizing Radiation Registration Fees

Please find attached, for your review and approval, the proposed rule and a Statement of Need and Reasonableness to increase the registration fees to inspect sources of ionizing radiation. We plan to submit this rule to the State Register June 18, 1990. We need preliminary approval prior to submission. If you have any questions, please contact me.

On review of the attached rule and supporting information justifying the reasonableness of the proposed fees and pursuant to the authority vested in the Department of Finance under Minnesota Statutes, section 16A.128 the fees set forth in the proposal of the Department of Health are hereby approved.



Bruce J. Reddemann, Director
Budget Operations and Support

6-15-90
Date

The proposed fees are approved for fiscal year 1991. They must be reviewed again as a part of the 1992-93 biennial budget process.