CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amendment)

902 KAR 100:012. Fee schedule.

RELATES TO: KRS 211.840-211.852, 211.990(4), 523.100
STATUTORY AUTHORITY: KRS 194A.050(1), 211.844, 211.848(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.848(1) authorizes[requires] the cabinet to establish a reasonable schedule of fees and charges by administrative regulation. This administrative regulation establishes a schedule of fees and charges for radioactive material licensees; radiation producing [machine] registrants; others who may receive, possess, use, transfer, or dispose of sources of radiation; and vendors, service providers, and qualified experts providing services in Kentucky.

Section 1. Radiation Producing Machine Schedule of Annual Fees and Charges. The following schedule, established in subsections (1) through (4) of this section, of annual fees shall apply to radiation producing machine registrants. An application for registration or annual renewal shall be accompanied by the appropriate fee established in subsections (1) through (4) of this section.

(1) A diagnostic x-ray [tube; therapeutic x-ray tube capable of operating up to 150 kVp] shall be $131.25[125].
(2) A therapeutic x-ray [tube capable of operating at 150 kVp or above] including particle accelerators shall be $525[500].
(3) Industrial, dental, and other x-ray [tubes] not specified in subsections (1) and (2) of this section shall be $89.25[eighty-five (85) dollars].
(4) Shielding evaluation, per room:
   (a) Diagnostic facilities shall be $600; and
   (b) Linear accelerator shall be $1,500.

Section 2. Radioactive Material License Schedule of Annual Fees and Charges. The following schedule, established in subsections (1) through (5) of this section, shall apply to radioactive material licenses. An initial and renewal application shall be accompanied by the fee established in this section.

(1) A specific radioactive material license initial and annual fee.
   (a) Human use.
      1. Nuclear medicine, imaging shall be $2,205[2,100].
      2. Nuclear medicine, radiopharmaceutical therapy shall be $2,205[2,100].
      3. Nuclear medicine, permanent implant shall be $2,835[2,700].
      4. Nuclear medicine, temporary implant shall be $1,575[1,500].
      5. Nuclear medicine, mobile imaging shall be $2,625[2,500].
      6. Teletherapy or Gamma Stereotactic Radiosurgery shall be $4,200[4,000].
      7. Broad scope, medical shall be $7,875[7,500].
      8. Other shall be $1,312.50[1,250].
   (b) Industrial radiography shall be $4,200[4,000].
   (c) Wireline service shall be $2,625[2,500].
   (d) Broad scope, academic shall be $3,675[3,500].
   (e) Nuclear laundry shall be $7,875[7,500].
(f) Irradiator.
1. Self-contained shall be $1,837.50[1,750].
2. Unshielded during irradiation shall be $4,410[4,200].
(g) Manufacturing, processing, or distribution.
1. Industrial gauging devices shall be $4,725[4,500].
2. In vitro-In vivo kits shall be $3,780[3,600].
3. Radiopharmaceuticals shall be $5,460[5,200].
4. Other shall be $3,780[3,600].
(h) Industrial gauging devices:
1. Fixed shall be $1,155[1,100]; and
2. Portable shall be $1,365[1,300].
(i) In vitro, academic, environmental, or clinical laboratory shall be $1,312.50[1,250].
(j) Veterinary use shall be $2,205[2,100].
(k) Services, such as leak testing shall be $1,312.50[1,200].
(l) An application for review of a:
1. New sealed source or device; or
2. Custom device shall be $4,600 plus the applicable fee in paragraphs (a) through (k) of this subsection.
(m) An amendment for review of a sealed source or device shall be $1,575[1,500].
(n) A byproduct, source, or special nuclear material license or other license-authorizing decommissioning, decontamination, reclamation, or site restoration shall be $7,875[7,500].
(o) A license specifically authorizing the receipt of prepackaged byproduct, source material, or special nuclear material from other persons. The license authorizes the disposal of the material by transfer to a person authorized to receive or dispose of the material, and the fee shall be $10,500[10,000].
(p) A license specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from a person for the purpose of storage, treatment, and packaging for transfer to a person authorized to receive or dispose of radioactive material shall be $26,250[25,000].
(2) A general radioactive material license initial and annual fee.
(a) In vitro or medical use specified in 902 KAR 100:050, Sections 4 and 5 shall be $1,312.50[1,250].
(b) Measuring, gauging, or a controlling device except emergency exit signs shall be $300 per device not to exceed $1,260[1,200] per use location.
(3) An application to amend an existing specific license shall be $210[200].
(4) An application for initial reciprocal recognition of an out-of-state license as established by 902 KAR 100:065. The fee shall be equal to the applicable fee for an in-state licensee.
(5) A licensee required to pay an annual fee pursuant to this administrative regulation may qualify as a small entity pursuant to form RPS-526, [Certificate of] Small Entity Certification[Status]. If a licensee qualifies as a small entity, based on Kentucky Department of Revenue review and approval, and completes and submits form RPS-526 with its annual fee payment each year, the licensee shall pay the reduced annual fee.

Section 3. Inspection Fee. (1) The cost of a routine interval inspection shall be covered in the annual licensing renewal fee.
(2) One (1) or more additional inspections shall be conducted to ensure ongoing public health and safety if any of the conditions established in paragraphs (a) through (d) exist:
(a) Willful neglect or careless disregard that has, or could lead to, a threat to public health and safety;
(b) Failure to take appropriate and timely action to correct documented violations of statutes, regulations, or conditions of the license or permit;

(c) A substantiated violation that indicates a lack of management oversight or that the radiation safety officer is not adequately performing duties; or

(d) Repeated violations from the previous inspection.

(3) The fee for each additional inspection shall be $525.

Section 4. Shipment of Radioactive Material and Waste. The shipper or carrier shall provide full cost reimbursement within thirty (30) days of receipt of the invoice, for all escorts of shipments of radioactive material, spent nuclear fuel, transuranic waste, radioactive waste, and other radioactive material or waste through Kentucky.

Section 5. Site Investigations, Remediation Projects, and Scoping Surveys. The licensee, remediation contractor, or other responsible party shall provide full cost reimbursement for review and oversight of site investigations, remediation projects, and scoping surveys to include project evaluation and planning, sample collection, analysis, and independent validation as applicable.

Section 6. Qualified Experts, Vendors and Service Providers. The schedule established in subsections (1) and (2) of this section shall apply to any entity or individual seeking or maintaining a designation as a qualified expert, vendor, or service provider as defined in 902 KAR 100:010.

(1) Qualified experts.
(a) Initial application shall be $105.
(b) Annual fee shall be $52.50.

(2) Vendors and service providers shall be $315.

Section 7. General Requirements. (1) A general radioactive material license shall expire on July 31 following the date of issuance.

(2) A radiation producing machine registration certificate shall expire on the last day of the month, one (1) year after the date of issuance.

(3) A general radioactive material license fee shall be paid on or before July 31.

(4) A specific radioactive material license shall be renewed annually based on the expiration date stated in the license.

(5) A renewal fee shall be paid within forty-five (45) days of the bill date. A payment postmarked more than forty-five (45) days of the bill date shall be subject to a $100 late payment penalty per license, device, or x-ray machine in addition to the renewal fee.

(6) Payment of a fee or other charge shall be submitted to the Radiation Health Branch, Cabinet for Health and Family Services, 275 East Main Street, Mailstop HS1C A, Frankfort, Kentucky 40621-0001, in the form of a check or money order payable to the Kentucky State Treasurer or paid online at https://prd.chfs.ky.gov/rad_epay/.

(7) If a check issued for payment of the fee established in this administrative regulation is returned to the state treasurer due to insufficient funds, the payor shall resubmit payment by money order or cashier's check.

(8) A registration and licensing application fee shall be nonrefundable.

(9) Failure to submit an applicable fee established in this administrative regulation shall be deemed a violation and subject to the provisions of 902 KAR 100:170.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Public Health, Division of Public Health Protection and Safety, Radiation Health Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8:00 a.m. to 4:30 p.m.

STEVEN J. STACK, MD, MBA, Commissioner
ERIC C. FRIEDLANDER, Secretary
APPROVED BY AGENCY: July 9, 2020
FILED WITH LRC: July 15, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on September 24, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by September 21, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until September 30, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Julie Brooks or Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a schedule of fees and charges for radioactive material licensees, radiation producing machine registrants, others who may receive, possess, use, transfer, or dispose of sources of radiation, and vendors, service providers, and qualified experts providing services in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure all who are engaged in the handling of radioactive materials are properly licensed with the department.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.844 authorizes the cabinet to provide by administrative regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. KRS 211.848 authorizes the secretary of the cabinet to fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for registration of radiation-producing machines and radioactive material licenses. The secretary is also authorized to prescribe, by regulation, a reasonable schedule of fees to be paid by registrants and licensees for inspections and environmental surveillance activities conducted by the cabinet. This administrative regulation conforms to the authorizing statutes by...
establishing the schedule of fees and the application process for all those engaged in the handling of radioactive materials.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all those who are engaged in the handling of radioactive materials are properly licensed with the state.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation increases the fee amounts to be paid by radioactive material licensees, radiation producing machine registrants, others who may receive, possess, use, transfer, or dispose of sources of radiation, and vendors, service providers, and qualified experts providing services in Kentucky.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure the fees collected help to offset the costs associated with registration and licensing for radioactive material licensees, radiation producing machine registrants, others who may receive, possess, use, transfer, or dispose of sources of radiation, and vendors, service providers, and qualified experts providing services in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.844 authorizes the cabinet to provide by administrative regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. KRS 211.848 authorizes the secretary of the cabinet to fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for registration of radiation-producing machines and radioactive material licenses. The secretary is also authorized to prescribe, by regulation, a reasonable schedule of fees to be paid by registrants and licensees for inspections and environmental surveillance activities conducted by the cabinet. The amendment to this administrative regulation conforms to the authorizing statutes by establishing the schedule of fees and the application process for all those engaged in the handling of radioactive materials.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures all those who are engaged in the handling of radioactive materials are properly licensed with the department.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact approximately 4,657 licensees registered with the Radioactive Producing Machine section of the Radiation Health Branch, and approximately 356 licensees registered with the Radioactive Materials section of the Radiation Health Branch.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: All licensees will need to be aware of the changed fee amounts. The registration process is not changed with the amendment to this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): Most licensees will have a 5% increase in the fee amount. Some licensees will pay a lower fee for x-ray machines with tubes due to simplifying the regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The benefit of compliance with this regulation will be that all licensees are properly registered with the department.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: This is an ongoing program, there are no initial costs.
(b) On a continuing basis: There is no anticipated increase in costs associated with this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Radiation Health Branch is funded by a combination of revenue received from fees and state general fund dollars.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: The amendment to this administrative regulation does increase the fee amounts.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. The fees in this administrative regulation are increased by 5% for all licensees. However, some fees associated with radioactive machines may be less due to simplifying the registration process for the number of tubes in the machine.

(9) TIERING: Is tiering applied? Tiering is not applied. The fee structure affects all licensed entities equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Radiation Health Branch in the Department for Public Health.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 211.844 and 211.848.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate approximately $85,750 in the first year.
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate approximately $85,750 in subsequent years.
(c) How much will it cost to administer this program for the first year? This administrative regulation does not add costs to the agency.
(d) How much will it cost to administer this program for subsequent years? This administrative regulation does not add costs to the agency.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/–):
Expenditures (+/–):
Other Explanation: