

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: August 30, 1990

TO: JANE A. NELSON
Rules Coordinator
Environmental Health Division

FROM: CHRISTIE ELLER CBE
Assistant Attorney General

PHONE: 296-9421

SUBJECT: In the Matter of the Adopted Rule Relating to
Registration Fees for Sources of Ionizing Radiation

The above-referenced rule has been approved as to its legality by the Attorney General on August 22, 1990.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

CBE:sc

Enclosures

cc: Paul Zerby
William Brown, Chief Judge
MaryAnn Hruby

CBE

RULE REVIEW CHECKLIST

File No. 1728
DATE RECEIVED 8-21-90
REVIEW DATE 8-30-90
DUE DATE 9-4-90
(DIS)APPROVED 8-30-90
WITHDRAWN _____

Docket No. 05 0009 1240
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 8-22-90
REVISOR (DIS)APPROVED 8/29/90
FILED W/SEC. OF STATE 8/30/90
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

1 ~~Notice to~~ Solicit Outside Information/Opinion (if applicable)

Feb 12, 1990 Date published in State Register

_____ Comments

✓ ~~Board's Authorizing Resolution~~

_____ Date adopted

✓ Proposed Rule

✓ Revisor's Certificate

_____ Notice of Intent to Adoppt Rule, ~~subds. 4 and 11~~ 144.12 subd 1, par. b Statutory Authority 144.121 subd 1 144.122 par. (a)

NA Small Business Statement

✓ Expenditure of public money statement

June 25, 1990 Signature prepared fiscal note

_____ Statement of Need and Reasonableness (if applicable) (not very good)

_____ Small Business Statement

✓ Fees - § 16A.128 - cleared per. from Fin. Dept. Sent letter to chairs of Senate Finance and House Approp.

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

June 28, 1990 Dated 30/25 days before adoption

✓ Notice attached indicates it is attached

_____ Copy of rule or summary attached

✓ Publication in State Register

July 9, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:

NA Effective date of law requiring rule - amendments

✓ (14.12) (both rules)

_____ end of comment period (§ 14.26) (rules without hearing)

_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting

_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

August 16, 1990 Date

✓ Declaration of Attorney

Paul Zelby Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

✓ Comments

Department of Health

Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

Rules as Proposed

4730.0600 REGISTRATION FEES.

Subpart 1. **Fee for initial or renewal registration.** The initial or renewal biennial registration of every source of ionizing radiation required to be registered by parts 4730.0400 to 4730.0800 ~~shall~~ must be accompanied by ~~a fee~~ fees as prescribed ~~herein~~ in this part. ~~The fee~~ Fees shall be based ~~upon~~ on a facility base fee for each facility and the number of X-ray tubes and ~~facilities using~~ radium specified in items A to D registered by each person, company, hospital, group, practice, or other organization or association ~~at one general site~~ as follows:

~~Type of Source~~	~~Charge per Tube First Five Tubes~~	~~Charge per Tube 6th Tube or More~~
~~Dental X-ray~~	~~$ 25~~	~~$ 10~~
~~Medical[1] industrial or educational[2] X-ray~~	~~40~~	~~10~~
~~Linear accelerator~~	~~50~~	
~~Radium/per facility~~	~~100~~	
~~Inspection surcharge for any X-ray or accelerator facility~~	~~40~~	
~~Maximum fee per facility~~	~~500~~	
Base fee per facility	$ 80	

Tube Type or Source

A. Dental X-ray, $40;

B. Medical[1], industrial, or educational[2] X-ray, $64;

C. Linear accelerator[3], $80; and

D. Radium per facility, $120.

[1] "Medical" ~~source~~ means radiographic and fluoroscopic X-ray equipment used by any licensed practitioner of the healing arts and facilities with which they are associated, but does not include ~~sources used by dentists~~ dental X-ray equipment.

[2] "Industrial" or "educational" ~~source~~ means industrial or educational X-ray equipment used in an industrial

Approved by Revisor KTH/JC

or educational facility.

[3] "Linear accelerator" means a medical particle accelerator or an industrial particle accelerator.

[For text of subps 2 and 3, see M.R.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

AGENCY: Department of Health

MINNESOTA RULES: Chapter 4730

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor

Department of Health

Adopted Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

Rules as Adopted

4730.0600 REGISTRATION FEES.

Subpart 1. **Fee for initial or renewal registration.** The initial or renewal biennial registration of every source of ionizing radiation required to be registered by parts 4730.0400 to 4730.0800 must be accompanied by fees as prescribed in this part. Fees shall be based on a facility base fee for each facility and the number of X-ray tubes and radium specified in items A to D registered by each person, company, hospital, group, practice, or other organization or association as follows:

Base fee per facility $ 80

Tube Type or Source

A. Dental X-ray, $40;

B. Medical[1],industrial, or educational[2] X-ray, $64;

C. Linear accelerator[3], $80; and

D. Radium per facility, $120.

[1] "Medical" means radiographic and fluoroscopic X-ray equipment used by any licensed practitioner of the healing arts and facilities with which they are associated, but does not include dental X-ray equipment.

[2] "Industrial" or "educational" means industrial or educational X-ray equipment used in an industrial or educational facility.

[3] "Linear accelerator" means a medical particle accelerator or an industrial particle accelerator.

[For text of subps 2 and 3, see M.R.]

APPROVED AS TO FORM AND LEGALITY

August 30 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Christie B Eller
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 3 0 1990

Joan Anderson Growe
Secretary of State

M

SF-00006-05 (4/86)

DEPARTMENT : Health

STATE OF MINNESOTA

Office Memorandum

DATE : August 20, 1990

TO : Patricia Nolte, Legal Assistant
Public Finance Division
Capitol Office Building

FROM : Jane A. Nelson, Rules Coordinator
Environmental Health Division

PHONE : 627-5038

SUBJECT : Review of a Rule Adopted Without a Public Hearing Governing Ionizing Radiation, Registration Fees, Minnesota Rules, part 4730.0600

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.03400 for your review of a rule adopted without a public hearing.

Official documents in this submittal include:

A. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the State Register.

B. A copy of the proposed rule with a certificate of approval as to form by the Revisor of Statutes attached.

C. The notice of intent to adopt a rule without a public hearing as mailed.

D. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

E. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavit states that the mailing list maintained by the Department pursuant to Minnesota Statutes, section 14.14 and 14.22 is accurate, complete, and current and that the notice of intent to adopt the rule was mailed to all persons and groups whose names appear on the list.

F. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

G. Four copies of the rule as adopted. Any modification made to the proposed rule is reflected on the rule as adopted and is approved as to form by the Revisor of Statutes.

H. The Findings of Fact, Conclusions, and Order Adopting the Rule.

I. All written requests, submissions, or comment on the rule received by the Department except requests solely for copies of the rule or for the statement of need and reasonableness.

J. The Declaration of Counsel of the Attorney General-Health.

No requests to be notified of submittal of the rule to the Attorney General were received.

If you have any questions on this submittal, please call me at 627-5038.

DEPARTMENT : Health

STATE OF MINNESOTA

Office Memorandum

DATE : August 20, 1990

TO : Patricia Nolte, Legal Assistant
Public Finance Division
Capitol Office Building

FROM : Jane A. Nelson, Rules Coordinator
Environmental Health Division

PHONE : 627-5038

SUBJECT : Review of a Rule Adopted Without a Public Hearing Governing Ionizing Radiation, Registration Fees, Minnesota Rules, part 4730.0600

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Official documents in this submittal include:

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B. A copy of the proposed rule with a certificate of approval as to form by the Revisor of Statutes attached.

C. The notice of intent to adopt a rule without a public hearing as mailed.

D. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

E. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavit states that the mailing list maintained by the Department pursuant to Minnesota Statutes, section 14.14 and 14.22 is accurate, complete, and current and that the notice of intent to adopt the rule was mailed to all persons and groups whose names appear on the list.

F. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

G. Four copies of the rule as adopted. Any modification made to the proposed rule is reflected on the rule as adopted and is approved as to form by the Revisor of Statutes.

H. The Findings of Fact, Conclusions, and Order Adopting the Rule.

I. All written requests, submissions, or comment on the rule received by the Department except requests solely for copies of the rule or for the statement of need and reasonableness.

J. The Declaration of Counsel of the Attorney General-Health.

No requests to be notified of submittal of the rule to the Attorney General were received.

If you have any questions on this submittal, please call me at 627-5038.

State of Minnesota

STATE REGISTER

FEB 1990
RECEIVED
M.D.H.
E.H.

Department of Administration—Print Communications Division



Rules edition

Published every Monday

12 February 1990

Volume 14, Number 33

Pages 1985-2040

Department of Health

Division of Environmental Health

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Ionization of Radiation

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health is seeking information or opinions from sources outside the department in preparing to propose the adoption of new rules and revision of existing rules governing the ionization of radiation. Rule subjects under consideration are contained in *Minnesota Rules*, chapter 4730 and include diagnostic and therapeutic radiation x-ray standards, industrial and educational x-ray standards, x-ray fees, and natural accelerator-produced radioactive materials (NARMS). The adoption of rules in this area is authorized by *Minnesota Statutes*, section 144.12, subdivision 1, paragraph (15), and sections 144.121 and 144.122 which permit the department to adopt reasonable rules, pursuant to chapter 14, which govern the sources of radiation, the handling, storage, transportation, use and disposal of radioactive isotopes and fissionable materials, establish fees for the registration of x-ray machines and radium, inspect sources of ionizing radiation, and issue original and renewal permits, licenses, registrations and certifications.

The Minnesota Department of Health requests information and opinions on the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to William Breitenstein, Minnesota Department of Health, Division of Environmental Health, 717 S.E. Delaware Street, P.O. Box 59040, Minneapolis, Minnesota 55459-0040. Oral statement will be received during regular business hours over the telephone at (612) 623-5346 and in person at the above address.

All statements of information and opinions will be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the Minnesota Department of Health shall become part of the rulemaking record to be submitted to the Office of the Attorney General or the Office of Administrative Hearings in the event that rules are adopted.

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

Department of Labor and Industry

Workers' Compensation Division

Amended Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Permanent Partial Disability

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry is seeking information or opinions from sources outside the agency in preparing to propose amendments to the rules governing permanent partial disability contained in *Minnesota Rules* Chapter 5223. The adoption of the rule is authorized by *Minnesota Statutes*, section 176.105, subdivision 4 which requires the agency to adopt rules assigning specific percentages of disability of the whole body for specific permanent partial disabilities.

The State Department of Labor and Industry requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements should be addressed to:

Gloria Gebhard
Department of Labor and Industry
443 Lafayette Road
St. Paul, Minnesota 55155

This notice amends the notice previously published in the October 23, 1989 issue of the *State Register* to now indicate that all statements of information and opinions shall be accepted until the rules are formally proposed for adoption. Any written material received by the State Department of Labor and Industry shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 29 January 1990

Kenneth B. Peterson
Commissioner

Department of Health

Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

Rules as Proposed

4730.0600 REGISTRATION FEES.

Subpart 1. **Fee for initial or renewal registration.** The initial or renewal biennial registration of every source of ionizing radiation required to be registered by parts 4730.0400 to 4730.0800 ~~shall~~ must be accompanied by ~~a fee~~ fees as prescribed ~~herein~~ in this part. ~~The fee~~ Fees shall be based ~~upon~~ on a facility base fee for each facility and the number of X-ray tubes and ~~facilities using~~ radium specified in items A to D registered by each person, company, hospital, group, practice, or other organization or association ~~at one general site~~ as follows:

~~Type of Source~~	~~Charge per Tube First Five Tubes~~	~~Charge per Tube 6th Tube or More~~
~~Dental X-ray~~	~~$ 25~~	~~$ 10~~
~~Medical[1] industrial or educational[2] X-ray~~	~~40~~	~~10~~
~~Linear accelerator~~	~~50~~	
~~Radium per facility~~	~~100~~	
~~Inspection surcharge for any X-ray or accelerator facility~~	~~40~~	
~~Maximum fee per facility~~	~~500~~	
Base fee per facility	$ 80	

Tube Type or Source

A. Dental X-ray, $40;

B. Medical[1], industrial, or educational[2] X-ray, $64;

C. Linear accelerator[3], $80; and

D. Radium per facility, $120.

[1] "Medical" ~~source~~ means radiographic and fluoroscopic X-ray equipment used by any licensed practitioner of the healing arts and facilities with which they are associated, but does not include ~~sources used by dentists~~ dental X-ray equipment.

[2] "Industrial" or "educational" ~~source~~ means industrial or educational X-ray equipment used in an industrial

Approved by Revisor KTH

or educational facility.

[3] "Linear accelerator" means a medical particle accelerator or an industrial particle accelerator.

[For text of subps 2 and 3, see M.R.]

Approved by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

AGENCY: Department of Health

MINNESOTA RULES: Chapter 4730

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Health Governing Ionizing Radiation, Registration Fees, Minnesota Rules, part 4730.0600

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

MARY QUAM, being sworn, says:

That on the 28th day of June, 1990, in the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the attached Department list and additional mailing list.

Mary Quam
(name)

Clerk Typist IIIe
(title)

Environmental Health
(division)

Subscribed and sworn to before me this 28th day of June, 1990.

Janice E. Wiehle

JANICE E. WIEHLE
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
MY COMMISSION EXPIRES JANUARY 20, 1993

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Health Governing Ionizing Radiation, Registration Fees, Minnesota Rules Part 4730.0600

Notice of Intent to Adopt Rules Without a Public Hearing, Notice Of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer than 25 Persons Request a Hearing

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby proposes to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minnesota Statutes, sections 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to Minnesota Statutes, section 14.25. To expedite the rulemaking process should that occur, the Department is at the same time giving notice of hearing on the proposed rules according to Minnesota Statutes, sections 14.131 to 14.20. The hearing on the proposed rules will be cancelled if 25 or more persons do not request that one be held. With the comment period closing on August 8, 1990, there will be eight days before the scheduled hearing date. This eight-day period will give

interested persons time to contact the Department to find out whether the hearing will be cancelled.

II.

NOTICE OF INTENT TO ADOPT PROPOSED RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

Interested persons shall have 30 days from the date this notice is published in the State Register to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on August 8, 1990. Comment is encouraged. Each comment should identify the portion of the proposed rule being addressed, the reason for the comment, and any change proposed to the rule by the commentor. The proposed rule may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comment, interested persons may request, in writing, during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any changes the commentor wants made to the proposed rule. If a person desires that a hearing be held on only a portion of the proposed rule, it is requested that the Department be informed of the specific portion of the rule on which a hearing is being requested at the time that the hearing request is made. This will enable the

Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rule or a portion thereof by August 8, 1990, thus necessitating that one be held with respect to the proposed rule. If a hearing is required, it will be held in accordance with the provisions of Minnesota Statutes, sections, 14.131 to 14.20 and the hearing notice provided in section III below.

Comments or written requests for a public hearing should be submitted to:

William Breitenstein
Radiation Control Section
Environmental Health Division
Minnesota Department of Health
925 Delaware Street Southeast
Minneapolis, Minnesota 55459
Telephone: (612) 627-5063

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1; and 144.122, paragraph (a).

The proposed rules are published immediately following this notice in the State Register on July 9, 1990, and a free copy of the rules may be obtained from the Department by writing or telephoning William Breitenstein at the address or telephone number listed above.

The proposed rule includes provisions relating to fees required 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."

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed

rule and identifies the data and information relied upon to support the proposed rule has been prepared and may be obtained from the Department by writing or telephoning William Breitenstein at the address or telephone number listed above.

After the close of the comment period on the proposed rule, if no hearing is required, the Department will submit to the Attorney General the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the Department, the statement of need and reasonableness, and a statement explaining any modifications to the proposed rule. The Attorney General will approve or disapprove the rule as to its legality and form, including the issue of substantial change and determine whether the Department has the authority to adopt the rule and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. The Department will give notice to all persons who request to be informed that these materials have been submitted to the Attorney General. Persons who wish to be advised of the submission of these materials to the Attorney General should submit a written request to William Breitenstein at the address listed above. If the proposed rule has been modified, the notice will also state that fact and will state that a free copy of the proposed rule, as modified, will be available upon request from the department.

LOCAL GOVERNMENT CONSIDERATIONS

The Department's evaluation of the impact of the proposed rule on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness and in a separate fiscal note. The increased fees proposed in part 4730.0600 which apply to local, school district and county-funded facilities with x-ray machines, radium sources and linear accelerators will not cost 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 each year. In accordance with Minnesota Statutes, section 3.982, a fiscal note has been prepared on this matter and is available to the public.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with Minnesota Statutes, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement of Need and Reasonableness.

III.

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING ON THE PROPOSED RULES IF 25 OR MORE PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING ON THE PROPOSED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON AUGUST 17, 1990, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held under Minnesota Statutes, sections 14.131 to 14.20, in Room 300 North, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on August

17, 1990, commencing at 9:00 a.m. The hearing will continue, if necessary, at additional times and places determined during the hearing by the Administrative Law Judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1500. Questions about procedure may be directed to the administrative law judge.

The statutory authority for the Department to adopt the proposed rules is contained in Minnesota Statutes, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1, and 144.122, paragraph (a).

The proposed rules are published immediately following this notice in the State Register on July 9, 1990, and a free copy of the rule amendments may be obtained from the Department

by writing or telephoning William Breitenstein at the address and telephone number listed above in Part II of this notice.

The proposed rules include provisions governing fees required 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."

The proposed rule may be modified as a result of the rule hearing process. Persons who are potentially affected in any manner by the substance of the proposed rule are therefore advised to participate in the process.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
>
> (b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone: (612) 296-5148.

Notice is hereby given that a statement of need and reasonableness is now available for review at the Department and

at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the proposed rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

LOCAL GOVERNMENT CONSIDERATIONS

The Department's evaluation of the impact of the proposed rules on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness and a separate fiscal note. The increase fees proposed in part 4730.0600 which apply to 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 each year. In accordance with Minnesota

Statutes, section 3.982, a fiscal note has been prepared on this matter and is available to the public on request.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need to be provided under Minnesota Statutes, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to Minnesota Statutes, section 14.115, regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with Minnesota Statutes, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the statement of need and reasonableness.

IV.

NOTICE OF INTENT TO CANCEL HEARING ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether a hearing noticed in Part III above will be held, please call or write William Breitenstein at the address or telephone number listed above before August 8, 1990, and leave your name, address, and telephone number. You will notified after August 8, 1990, if the hearing has been cancelled. You may also call William Breitenstein at (612) 627-

5063 after August 8, 1990, for oral confirmation about the scheduled hearing.

Dated:

June 25, 1990

for Daniel J. McGreevy

Sister Mary Madonna Ashton
Commissioner of Health

Department of Health

Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

Rules as Proposed

4730.0600 REGISTRATION FEES.

Subpart 1. **Fee for initial or renewal registration.** The initial or renewal biennial registration of every source of ionizing radiation required to be registered by parts 4730.0400 to 4730.0800 ~~shall~~ must be accompanied by ~~a fee~~ fees as prescribed ~~herein~~ in this part. ~~The fee~~ Fees shall be based ~~upon~~ on a facility base fee for each facility and the number of X-ray tubes and ~~facilities using~~ radium specified in items A to D registered by each person, company, hospital, group, practice, or other organization or association ~~at one general site~~ as follows:

~~Type of Source~~	~~Charge per Tube First Five Tubes~~	~~Charge per Tube 6th Tube or More~~
~~Dental X-ray~~	~~$ 25~~	~~$ 10~~
~~Medical[1] industrial or educational[2] X-ray~~	~~40~~	~~10~~
~~Linear accelerator~~	~~50~~	
~~Radium per facility~~	~~100~~	
~~Inspection surcharge for any X-ray or accelerator facility~~	~~40~~	
~~Maximum fee per facility~~	~~500~~	
Base fee per facility	$ 80	

Tube Type or Source

A. Dental X-ray, $40;

B. Medical[1], industrial, or educational[2] X-ray, $64;

C. Linear accelerator[3], $80; and

D. Radium per facility, $120.

[1] "Medical" ~~source~~ means radiographic and fluoroscopic X-ray equipment used by any licensed practitioner of the healing arts and facilities with which they are associated, but does not include ~~sources used by dentists~~ dental X-ray equipment.

[2] "Industrial" or "educational" ~~source~~ means industrial or educational X-ray equipment used in an industrial

Approved by Revisor KTK

or educational facility.

[3] "Linear accelerator" means a medical particle accelerator or an industrial particle accelerator.

[For text of subps 2 and 3, see M.R.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

AGENCY: Department of Health

MINNESOTA RULES: Chapter 4730

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Adoption of the Rules of the Minnesota Department of Health Governing Ionizing Radiation, Registration Fees, Minnesota Rules, part 4730.0600

DECLARATION OF COUNSEL

I, Paul Zerby, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is .

Paul M Zerby

Special Assistant
Attorney General

Dated: August 21, 1990

Stat. Authority

144.12 subd. 1 paragraph 15

Subd 1 The commissioner may adopt reasonable rules pursuant to chapter 14 for the preservation of the ~~of~~ public health.

~~subd~~ paragraph 15 Sources of radiation, and handling, storage, transporation, use and disposal of radioactive isotopes and fissionable materials

144.121 subd 1

The fee for the registration for X-ray machines and radium required to be registered under rules adopted by the state commissioner of health

144.122 paragraph (a)

The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner

Notice indicates end of comment period is Aug 8 '90
published in State Register July 9, 1990 ⅗ 30 days

Statement of Need and Reasonableness

16A. 128 Fees = memo of June 13, 1990 from Bruce Beckman (Finance) approving the fees
Letters of June 21 to Senate Finance Committee and letter of June 18 to House Appropriations Committee attaching the proposed rules and notice to adopt

I think the SOLAR could have done a better job of explaining why they went from a rate method of giving people a discount for having additional tubes over 5 to the new way of a flat fee per tub with no discount - there are 2 sentences on page 4 1st paragraph = this does not tell me why this is reasonable to discontinue group discounts. It is also reasonable to give discounts because if I have to drive to one place and inspect one bulb that's more expensive then if I have more to do at one location. Because the travel time and set up time is the same for 1 bulb or 10. They also didn't explain very well why they were

eliminating the maximum fee per facility
This is even a bigger change than
eliminating the discount for large institutions
like the Mayo Clinic which use to pay
$1800 and now will pay $20,300.
(see comments). They should have addressed
larger institutions having their own quality
control programs and why that doesn't
make any difference to the State in
inspecting the tubes.

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed
Adoption of Rules of the
Minnesota Department of Health
Governing Ionizing Radiation,
Registration Fees, Minnesota
Rules, part 4730.0600

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, that their names be placed on file with, and maintained by, the Minnesota Department of Health for the purpose of receiving notice of rule hearings, is accurate and complete as of

8:35 a.m., this 22 day of June, 1990.

Dee Woodard

Dee Woodard

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STATE OF MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Health Governing Ionizing Radiation, Registration Fees, Minnesota Rules Part 4730.0600

Notice of Intent to Adopt Rules Without a Public Hearing, Notice Of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer than 25 Persons Request a Hearing

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby proposes to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minnesota Statutes, sections 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to Minnesota Statutes, section 14.25. To expedite the rulemaking process should that occur, the Department is at the same time giving notice of hearing on the proposed rules according to Minnesota Statutes, sections 14.131 to 14.20. The hearing on the proposed rules will be cancelled if 25 or more persons do not request that one be held. With the comment period closing on August 8, 1990, there will be eight days before the scheduled hearing date. This eight-day period will give

interested persons time to contact the Department to find out whether the hearing will be cancelled.

II.

NOTICE OF INTENT TO ADOPT PROPOSED RULES WITHOUT A PUBLIC HEARING

(1) **NOTICE IS HEREBY GIVEN** that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

(2) Interested persons shall have 30 days from the date this notice is published in the State Register to submit comments in support of or in opposition to the proposed rules. (8) The 30 days will expire on August 8, 1990. Comment is encouraged (3) Each comment should identify the portion of the proposed rule being addressed, the reason for the comment, and any change proposed to the rule by the commentor. (8) The proposed rule may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comment, interested persons may request, in writing, during the 30-day comment period that a hearing be held on the proposed rules (6) Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any changes the commentor wants made to the proposed rule. If a person desires that a hearing be held on only a portion of the proposed rule, it is requested that the Department be informed of the specific portion of the rule on which a hearing is being requested at the time that the hearing request is made. This will enable the

Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rule or a portion thereof by August 8, 1990, thus necessitating that one be held with respect to the proposed rule. If a hearing is required, it will be held in accordance with the provisions of Minnesota Statutes, sections, 14.131 to 14.20 and the hearing notice provided in section III below.

Comments or written requests for a public hearing should be submitted to:

William Breitenstein
Radiation Control Section
Environmental Health Division
Minnesota Department of Health
925 Delaware Street Southeast
Minneapolis, Minnesota 55459
Telephone: (612) 627-5063

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1; and 144.122, paragraph (a).

The proposed rules are published immediately following this notice in the State Register on July 9, 1990, and a free copy of the rules may be obtained from the Department by writing or telephoning William Breitenstein at the address or telephone number listed above.

The proposed rule includes provisions relating to fees required 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."

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed

rule and identifies the data and information relied upon to support the proposed rule has been prepared and may be obtained from the Department by writing or telephoning William Breitenstein at the address or telephone number listed above.

(9) After the close of the comment period on the proposed rule, if no hearing is required, the Department will submit to the Attorney General the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the Department, the statement of need and reasonableness, and a statement explaining any modifications to the proposed rule. The Attorney General will approve or disapprove the rule as to its legality and form, including the issue of (3) substantial change and determine whether the Department has the authority to adopt the rule and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. The Department will give notice to all persons who request to be informed that these materials have been submitted to the Attorney General. Persons who wish to be advised of the submission of these materials to the Attorney General should submit a written request to William Breitenstein at the address listed above. (8) If the proposed rule has been modified, the notice will also state that fact and will state that a free copy of the proposed rule, as modified, will be available upon request from the department.

LOCAL GOVERNMENT CONSIDERATIONS

The Department's evaluation of the impact of the proposed rule on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness and in a separate fiscal note. The increased fees proposed in part 4730.0600 which apply to local, school district and county-funded facilities with x-ray machines, radium sources and linear accelerators will not cost 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 each year. In accordance with Minnesota Statutes, section 3.982, a fiscal note has been prepared on this matter and is available to the public.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with Minnesota Statutes, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement of Need and Reasonableness.

III.

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING ON THE PROPOSED RULES IF 25 OR MORE PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING ON THE PROPOSED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON AUGUST 17, 1990, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held under Minnesota Statutes, sections 14.131 to 14.20, in Room 300 North, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on August

17, 1990, commencing at 9:00 a.m. The hearing will continue, if necessary, at additional times and places determined during the hearing by the Administrative Law Judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1500. Questions about procedure may be directed to the administrative law judge.

The statutory authority for the Department to adopt the proposed rules is contained in Minnesota Statutes, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1, and 144.122, paragraph (a).

The proposed rules are published immediately following this notice in the State Register on July 9, 1990, and a free copy of the rule amendments may be obtained from the Department

by writing or telephoning William Breitenstein at the address and telephone number listed above in Part II of this notice.

The proposed rules include provisions governing fees required 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."

The proposed rule may be modified as a result of the rule hearing process. Persons who are potentially affected in any manner by the substance of the proposed rule are therefore advised to participate in the process.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
>
> (b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone: (612) 296-5148.

Notice is hereby given that a statement of need and reasonableness is now available for review at the Department and

at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the proposed rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

LOCAL GOVERNMENT CONSIDERATIONS

The Department's evaluation of the impact of the proposed rules on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness and a separate fiscal note. The increase fees proposed in part 4730.0600 which apply to 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 each year. In accordance with Minnesota

Statutes, section 3.982, a fiscal note has been prepared on this matter and is available to the public on request.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need to be provided under Minnesota Statutes, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to Minnesota Statutes, section 14.115, regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with Minnesota Statutes, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the statement of need and reasonableness.

IV.

NOTICE OF INTENT TO CANCEL HEARING ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether a hearing noticed in Part III above will be held, please call or write William Breitenstein at the address or telephone number listed above before August 8, 1990, and leave your name, address, and telephone number. You will notified after August 8, 1990, if the hearing has been cancelled. You may also call William Breitenstein at (612) 627-

5063 after August 8, 1990, for oral confirmation about the scheduled hearing.

Dated:

June 25, 1990

Sister Mary Madonna Ashton
Commissioner of Health

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Health Governing Ionizing Radiation, Registration Fees, Minnesota Rules Part 4730.0600

Notice of Intent to Adopt Rules Without a Public Hearing, Notice Of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer than 25 Persons Request a Hearing

I.

EXPLANATION OF ALTERNATIVE NOTICES

The Minnesota Department of Health (hereinafter "Department") hereby proposes to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minnesota Statutes, sections 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to Minnesota Statutes, section 14.25. To expedite the rulemaking process should that occur, the Department is at the same time giving notice of hearing on the proposed rules according to Minnesota Statutes, sections 14.131 to 14.20. The hearing on the proposed rules will be cancelled if 25 or more persons do not request that one be held. With the comment period closing on August 8, 1990, there will be eight days before the scheduled hearing date. This eight-day period will give

interested persons time to contact the Department to find out whether the hearing will be cancelled.

II.

NOTICE OF INTENT TO ADOPT PROPOSED RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

Interested persons shall have 30 days from the date this notice is published in the State Register to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on August 8, 1990. Comment is encouraged. Each comment should identify the portion of the proposed rule being addressed, the reason for the comment, and any change proposed to the rule by the commentor. The proposed rule may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comment, interested persons may request, in writing, during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any changes the commentor wants made to the proposed rule. If a person desires that a hearing be held on only a portion of the proposed rule, it is requested that the Department be informed of the specific portion of the rule on which a hearing is being requested at the time that the hearing request is made. This will enable the

Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rule or a portion thereof by August 8, 1990, thus necessitating that one be held with respect to the proposed rule. If a hearing is required, it will be held in accordance with the provisions of Minnesota Statutes, sections, 14.131 to 14.20 and the hearing notice provided in section III below.

Comments or written requests for a public hearing should be submitted to:

William Breitenstein
Radiation Control Section
Environmental Health Division
Minnesota Department of Health
925 Delaware Street Southeast
Minneapolis, Minnesota 55459
Telephone: (612) 627-5063

The statutory authority of the Department to adopt the proposed rules is contained in Minnesota Statutes, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1; and 144.122, paragraph (a).

The proposed rules are published immediately following this notice in the State Register on July 9, 1990, and a free copy of the rules may be obtained from the Department by writing or telephoning William Breitenstein at the address or telephone number listed above.

The proposed rule includes provisions relating to fees required 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."

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed

rule and identifies the data and information relied upon to support the proposed rule has been prepared and may be obtained from the Department by writing or telephoning William Breitenstein at the address or telephone number listed above.

After the close of the comment period on the proposed rule, if no hearing is required, the Department will submit to the Attorney General the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the Department, the statement of need and reasonableness, and a statement explaining any modifications to the proposed rule. The Attorney General will approve or disapprove the rule as to its legality and form, including the issue of substantial change and determine whether the Department has the authority to adopt the rule and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. The Department will give notice to all persons who request to be informed that these materials have been submitted to the Attorney General. Persons who wish to be advised of the submission of these materials to the Attorney General should submit a written request to William Breitenstein at the address listed above. If the proposed rule has been modified, the notice will also state that fact and will state that a free copy of the proposed rule, as modified, will be available upon request from the department.

LOCAL GOVERNMENT CONSIDERATIONS

The Department's evaluation of the impact of the proposed rule on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness and in a separate fiscal note. The increased fees proposed in part 4730.0600 which apply to local, school district and county-funded facilities with x-ray machines, radium sources and linear accelerators will not cost 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 each year. In accordance with Minnesota Statutes, section 3.982, a fiscal note has been prepared on this matter and is available to the public.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to Minnesota Statutes, section 14.115 regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with Minnesota Statutes, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement of Need and Reasonableness.

III.

NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING ON THE PROPOSED RULES IF 25 OR MORE PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING ON THE PROPOSED RULES WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON AUGUST 17, 1990, IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held under Minnesota Statutes, sections 14.131 to 14.20, in Room 300 North, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on August

17, 1990, commencing at 9:00 a.m. The hearing will continue, if necessary, at additional times and places determined during the hearing by the Administrative Law Judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1500. Questions about procedure may be directed to the administrative law judge.

The statutory authority for the Department to adopt the proposed rules is contained in Minnesota Statutes, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1, and 144.122, paragraph (a).

The proposed rules are published immediately following this notice in the State Register on July 9, 1990, and a free copy of the rule amendments may be obtained from the Department

by writing or telephoning William Breitenstein at the address and telephone number listed above in Part II of this notice.

The proposed rules include provisions governing fees required 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."

The proposed rule may be modified as a result of the rule hearing process. Persons who are potentially affected in any manner by the substance of the proposed rule are therefore advised to participate in the process.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
>
> (b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone: (612) 296-5148.

Notice is hereby given that a statement of need and reasonableness is now available for review at the Department and

at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the proposed rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

LOCAL GOVERNMENT CONSIDERATIONS

The Department's evaluation of the impact of the proposed rules on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness and a separate fiscal note. The increase fees proposed in part 4730.0600 which apply to 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 each year. In accordance with Minnesota

Statutes, section 3.982, a fiscal note has been prepared on this matter and is available to the public on request.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need to be provided under Minnesota Statutes, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to Minnesota Statutes, section 14.115, regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in Minnesota Statutes, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with Minnesota Statutes, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the statement of need and reasonableness.

IV.

NOTICE OF INTENT TO CANCEL HEARING ON THE PROPOSED RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING ON THE PROPOSED RULES IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To be informed whether a hearing noticed in Part III above will be held, please call or write William Breitenstein at the address or telephone number listed above before August 8, 1990, and leave your name, address, and telephone number. You will notified after August 8, 1990, if the hearing has been cancelled. You may also call William Breitenstein at (612) 627-

5063 after August 8, 1990, for oral confirmation about the scheduled hearing.

Dated:

June 25, 1990

Sister Mary Madonna Ashton
Commissioner of Health

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, subdivison 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

STAFF	FTE'S	SALARY + FRINGE
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
Total		$213,537
SUPPLIES, EQUIPMENT AND TRAVEL		$26,870
INDIRECT COSTS @ 15.6%		$37,503
GRAND TOTAL		$277,910

* 1/2 year - staff started 1/10/90

LEGISLATIVELY AUTHORIZED COMPLEMENT FOR 1991

STAFF	FTE'S	SALARY + FRINGE
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

STAFF	FTE'S	SALARY + FRINGE
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

STAFF	FTE'S	SALARY + FRINGE
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

Year	1991	1992	1993	1994	1995
Staff	$245,342	$259,319	$274,098	$289,290	$305,782
Travel and equipment	83,370	65,370	58,370	29,370	29,370
Indirect costs at 15.6%	51,279	50,467	51,865	49,711	51,894
Total	$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

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Celebrate MINNESOTA 1990

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, four 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 rules 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

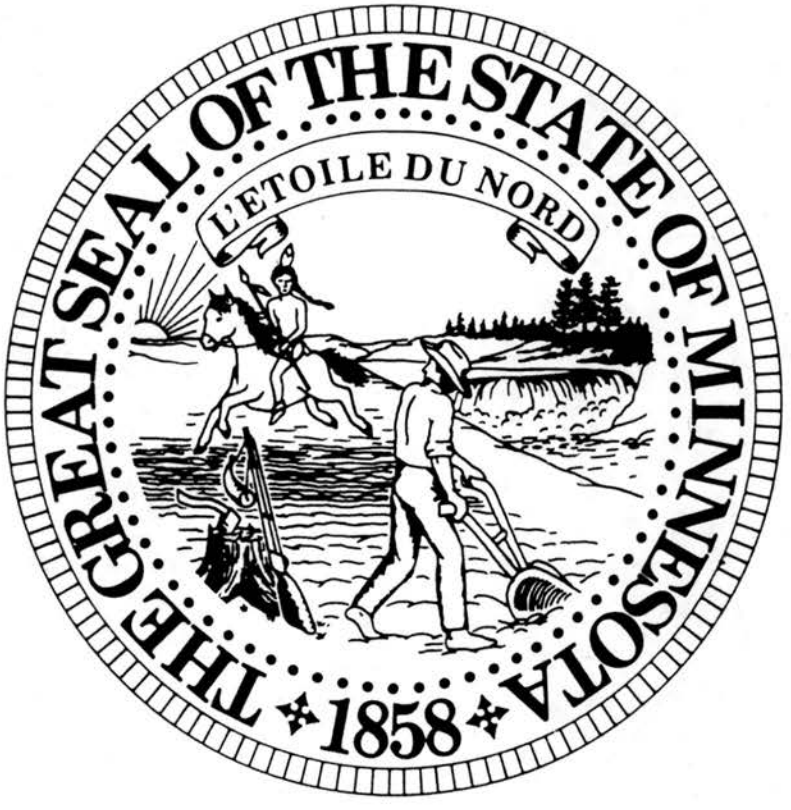
6-15-90
Date

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

JUL 1 0 1990

The Minnesota
State Register

Department of Administration—Print Communications Division



Rules edition
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Pages 37-100

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Health

Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Department of Health (hereinafter "Department") hereby proposes to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes*,sections 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to *Minnesota Statutes*, section 14.25. To expedite the rule making process should that occur, the Department is at the same time giving notice of hearing on the proposed rules according to *Minnesota Statutes*, sections 14.131 to 14.20. The hearing on the proposed rules will be cancelled if 25 or more persons do not request the one be held. With the comment period closing on August 8, 1990, there will be eight days before the scheduled hearing date. This eight-day period will give interested persons time to contact the Department to find out whether the hearing will be cancelled.

II. Notice of Intent to Adopt Proposed Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on August 8, 1990. Comment is encouraged. Each comment should identify the portion of the proposed rule being addressed, the reason for the comment, and any change proposed to the rule by the commentor. The proposed rule may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

In addition to submitting comment, interested persons may request, in writing, during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any changes the commentor wants made to the proposed rule. If a person desires that a hearing be held on only a portion of the proposed rule, it is requested that the Department be informed of the specific portion of the rule on which the hearing is being requested at the time that the hearing request is made. This will enable the Department to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rule or a portion thereof by August 8, 1990, thus necessitating that one be held with respect to the proposed rule. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes*, sections, 14.131 to 14.20 and the hearing notice provided in section III below.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Comments or written requests for a public hearing should be submitted to:

William Breitenstein
Radiation Control Section
Environmental Health Division
Minnesota Department of Health
925 Delaware Street Southeast
Minneapolis, Minnesota 55459
Telephone: (612) 627-5063

The statutory authority of the Department to adopt the proposed rules is contained in *Minnesota Statutes*, sections 144.12, subdivision 1, paragraph (15); 144.121; subdivision 1; and 144.122, paragraph (a).

The proposed rules are published immediately following this notice in the *State Register* on July 9, 1990, and a free copy of the rules may be obtained from the Department by writing or telephoning William Breitenstein at the address or telephone number listed above.

The proposed rule includes provisions relating to fees required 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."

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and may be obtained from the Department by writing or telephoning William Breitenstein at the address or telephone number listed above.

After the close of the comment period on the proposed rule, if no hearing is required, the Department will submit to the Attorney General the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the Department, the statement of need and reasonableness, and a statement explaining any modifications to the proposed rule. The Attorney General will approve or disapprove the rule as to its legality and form, including the issue of substantial change and determine whether the Department has the authority to adopt the rule and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. The Department will give notice to all persons who request to be informed that these materials have been submitted to the Attorney General. Persons who wish to be advised of the submission of these materials to the Attorney General should submit a written request to William Breitenstein at the address listed above. If the proposed rule has been modified, the notice will also state that fact and will state that a free copy of the proposed rule, as modified, will be available upon request from the department.

LOCAL GOVERNMENT CONSIDERATIONS

The Department's evaluation of the impact of the proposed rule on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness and in a separate fiscal note. The increased fees proposed in part 4730.0600 which apply to local, school district and county-funded facilities with x-ray machines, radium sources and linear accelerators will not cost 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 each year. In accordance with *Minnesota Statutes*, section 3.982, a fiscal note has been prepared on this matter and is available to the public.

AGRICULTURAL LAND

The proposed rule amendments will not have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11.

SMALL BUSINESS CONSIDERATIONS

The Department is subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The Department's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the statement of need and reasonableness.

NOTICE TO DEPARTMENT OF FINANCE

In accordance with *Minnesota Statutes*, section 16A.128, pertaining to fees, the Department has notified the Commissioner of Finance of the Department's intent to adopt the above-entitled matter. A copy of the Department's notice and the Commissioner of Finance's reply are attached to the Statement of Need and Reasonableness.

III. Notice of Intent to Adopt Rules With a Public Hearing on the Proposed Rules if 25 or More Persons Request a Hearing on the Proposed Rules

Please note that if 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period pursuant to the notice given in Part II above, a hearing will be held on August 17, 1990, in accordance with the following notice of public hearing.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held under *Minnesota Statutes*, sections 14.131 to 14.20, in Room 300 North, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on August 17, 1990, commencing at 9:00 a.m. The hearing will continue, if necessary, at additional times and places determined during the hearing by the Administrative Law Judge.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The department and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1500. Questions about procedure may be directed to the administrative law judge.

The statutory authority for the Department to adopt the proposed rules is contained in *Minnesota Statutes*, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1, and 144.122, paragraph (a).

The proposed rules are published immediately following this notice in the *State Register* on July 9, 1990, and a free copy of the rule amendments may be obtained from the Department by writing or telephoning William Breitenstein at the address and telephone number listed above in Part II of this notice.

The proposed rules include provisions governing fees required 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."

The proposed rule may be modified as a result of the rule hearing process. Persons who are potentially affected in any manner by the substance of the proposed rule are therefore advised to participate in the process.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone: (612) 296-5148.

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Department may not take any final action on the proposed rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

LOCAL GOVERNMENT CONSIDERATIONS

The Department's evaluation of the impact of the proposed rules on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness and a separate fiscal note. The increase fees proposed in part 4730.0600 which apply to 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 each year. In accordance with Minnesota 5063 after August 8, 1990, for oral confirmation about the scheduled hearing.

Dated: 25 June 1990

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed

4730.0600 REGISTRATION FEES.

Subpart 1. **Fee for initial or renewal registration.** The initial or renewal biennial registration of every source of ionizing radiation required to be registered by parts 4730.0400 to 4730.0800 ~~shall~~ must be accompanied by ~~a fee~~ fees as prescribed ~~herein~~ in this part. ~~The fee~~ Fees shall be based ~~upon~~ on a facility base fee for each facility and the number of X-ray tubes and ~~facilities using~~ radium specified in items A to D registered by each person, company, hospital, group, practice, or other organization or association ~~at one general site~~ as follows:

~~Type of Source~~	~~Charge per Tube First Five Tubes~~	~~Charge per Tube 6th Tube or More~~
~~Dental X-ray~~	~~$ 25~~	~~$10~~
~~Medical[1] industrial or educational[2] X-ray~~	~~40~~	~~10~~
~~Linear accelerator~~	~~50~~	
~~Radium/per facility~~	~~100~~	
~~Inspection surcharge for any X-ray or accelerator facility~~	~~40~~	
~~Maximum fee per facility~~	~~500~~	
Base fee per facility	$ ~~80~~	

Tube Type or Source

A. Dental X-ray, $40;

B. Medical[1], industrial, or educational[2] X-ray, $64;

C. Linear accelerator[3], $80; and

D. Radium per facility, $120.

[1]"Medical" ~~source~~ means radiographic and fluoroscopic X-ray equipment used by any licensed practitioner of the healing arts and facilities with which they are associated, but does not include ~~sources used by dentists~~ dental X-ray equipment.

[2]"Industrial" or "educational" ~~source~~ means industrial or educational X-ray equipment used in an industrial or educational facility.

[3]"Linear accelerator" means a medical particle accelerator or an industrial particle accelerator.

[For text of subps 2 and 3, see M.R.]

Secretary of State

Proposed Permanent Rules Relating to Format of Ballot Pages for Punch Card Systems

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Secretary of State intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 204D.11 subd. 1.

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Proposed Adoption of the Rule of the Minnesota Department of Health Governing Ionizing Radiation, Registration Fees, Minnesota Rules, part 4730.0600

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on July 9, 1990 at 15 S.R.41 and was sent by United States mail to all persons on the list maintained by the Department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on June 28, 1990. (2) The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the Department mailing list and published in the State Register and was available to the public. In accordance with Minnesota Statutes, section 14.131 and 14.23, the Statement of Need and Reasonableness was submitted to the Legislative Commission to Review Administrative Rules on June 25, 1990.

(3) Before the Notice to Adopt the Rule Without a Public Hearing was submitted to the State Register, a copy of the notice and the proposed rule was sent to the chairs of the House Appropriations committee and Senate Finance committee. Also prior to publication, the proposed fees were reviewed and approved by the Department of Finance.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) The Department received five comments within the 30 day comment period, one late comment, four requests for a public hearing, of which none were subsequently withdrawn. (7) Therefore, the Department did not receive requests for a public hearing from 25 or more persons which were not withdrawn. No requests for Notice of Submission to the Attorney General were received by the Department.

FINDINGS

(8) 1. Based on the comments and evidence in the record before the Department, including the Statement of Need and Reasonableness which is incorporated herein, the Commissioner finds that the above matter is needed and reasonable. (8)

2. Commentors Bennett, Avant, Robnik and Bergh recommend that a fee cap per facility be reinstituted. Eliminating the cap on fees for large facilities they said is unfair because their large facilities have an existing quality control program and staff who do routine checks of their x-ray equipment. They recommend an audit or facility record review procedure or partial inspection of equipment. These commentors argue that state inspections should

focus on "small offices" where inspection of "old, inadequately shielded and little used equipment is definitely warranted."

The Commissioner has reviewed the comment and recommendations received and finds that the recommendations of the above commentors cannot be accepted for the following reasons.

A. Minnesota Statutes, section 144.121, subdivision 2 mandates that the commissioner inspect sources of ionizing radiation. The statute does not provide that a facility may conduct its own inspections in lieu of a state inspection. Reliance on an auditing system of facility-conducted inspections would require a change in the statutory mandate.

B. The statute also does not differentiate in its requirement that the commissioner inspect large facilities and equipment used by large facilities from its requirement that she inspect equipment used by smaller offices. The mandate of law is to assure that all equipment which ionizes radiation, regardless of the size of the facility in which it is housed or used, is uniformly inspected so the health and safety of the public is ensured. In previous inspections and surveys the department has found noncompliant equipment in both large and small facilities.

C. A quality control program is required of facilities that meet federal Joint Commission on the Accreditation of Health Organizations standards. However, neither the currently adopted rules nor statute mandate a facility, whether large or small, to have a quality control program or employ a medical physicist. Quality control program standards are being considered by the department for future rulemaking, but are not now mandated or required. Thus such standards cannot be presumed to be maintained by or exist throughout the industry even in other large facilities.

D. The department does not accept a non-state survey that the facility's x-ray equipment meets all existing state regulations. There is no mechanism to assure that uniform state testing methods have been followed. Also, the Department does not have a program to track non-state inspected x-ray units that would be out of compliance with state rules.

E. The proposed rules do not pose a "grossly unfair burden" on larger facilities as commentors Robnik, Avant and Bennett argue. The fees are based on amount of equipment. The fees are equitable and fair in that the same fee is charged for inspecting the same kind of equipment regardless of the size of the corporation, facility or entity that owns or uses it. Larger facilities usually have more equipment to inspect and the department is required to inspect each source of ionizing radiation. Some of the equipment maintained by larger facilities is highly specialized, thus requiring more time and technical expertise to inspect and evaluate. Finally, it could be argued that a cap on fees paid by facilities with many pieces of equipment to inspect, often large facilities, creates an inequity whereby facilities with a few pieces of equipment, primarily small businesses, subsidizing the costs of inspecting equipment in large facilities.

CONCLUSIONS

1. The above-captioned rule is needed and reasonable.

2. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of the persons affected by the rules to comprehend their meaning and effect.

3. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

4. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

NOW, THEREFORE, IT IS ORDERED that the rule identified as rules governing ionizing radiation, registration fees, Minnesota Rules, part 4730.0600 is adopted this day of (9) 8/16, 1990, pursuant to authority vested in me by Minnesota Statutes, sections 144.12, subdivision 1, paragraph (15); 144.121, subdivision 1; and 144.122, paragraph (a).

Sr. Mary Madonna Ashton

SISTER MARY MADONNA ASHTON
COMMISSIONER OF HEALTH

SF-00006-05 (4-86)

DEPARTMENT : Health

STATE OF MINNESOTA

Office Memorandum

DATE : June 25, 1990

TO : Legislative Commission 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.

MINNESOTA RADIOLOGICAL SOCIETY, INC.
A CHAPTER OF THE AMERICAN COLLEGE OF RADIOLOGY

Spencer L. Robnik, M.D.
19921 Andrew Road West
New London, MN 56273-9662

July 28, 1990

JUL 31 1990
Environmental Health
Radiation Control

Mr. William Breitenstein
Radiation Control Section
Environmental Health Division
Minnesota Department of Health
925 Delaware Street Southeast
Minneapolis, Minnesota 55459

Dear Mr. Breitenstein,

I am writing with regard to the proposed adoption of rules of the Minnesota Department of Health governing ionizing radiation registration fees (MN rules part 4730.0600).

The Minnesota Radiological Society supports the State's efforts in reducing the unnecessary radiation exposure to the public by assuring that x-ray equipment operates properly. We feel that the public has the right to expect that a state monitored safety program should assure that they will not be subjected to outdated equipment with excess irradiation at any facility. In fact, more frequent evaluation of old, inadequately shielded and little used equipment is definitely warranted. These tubes and/or devices are usually located in small offices, clinics and other facilities with no quality control program in place and where no inspections, other than those conducted by the State, are ever performed.

Larger institutions with many x-ray tubes, however, have medical physicists employed to check all devices and systems which produce ionizing radiation at a frequency usually more often than called for by state guidelines, as their concern for patient safety and radiographic quality is as great as yours.

The proposed new fee rules will place a grossly unfair burden on those institutions which already exceed your requirements by removal of the "maximum fee per facility" which had been set at $500.00 A more reasonable and fair approach might be to set a maximum charge per institution at 10, 15 or 20 tubes multiplied by whatever per tube charge is set, i.e. $64.00 as proposed.

If the "maximum fee per facility" cannot be restored without a hearing then I feel that a hearing should be held to prevent the injustice and unfair burden which would be placed on larger institutions which already fulfill the intent and requirements of the law without state inspections.

Sincerely,

Spencer L. Robnik M.D.

Spencer L. Robnik, M.D.
President, Minnesota Radiological Society

St. Paul·Ramsey Medical Center RAMSEY

Jackson at University
St. Paul, Minnesota 55101-2595
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Department of Medical Imaging

August 2, 1990

Mr. William Breitenstein
Radiation Control Section
Environmental Health Division
Minnesota Department of Health
925 Delaware Street S.E.
Minneapolis, MN 55459

AUG 0 6 1990
Environmental Health
Radiation Control

Re: Proposed Rules Change, Registration Fees (4730.06)

Dear Mr. Breitenstein:

Today, I wish to remark on the above referenced proposed registration fee increase.

As written, the proposed draft fails to direct the fee increase toward the noncompliant user group. I am sure your records will confirm that the small user who tries to squeak by the existing rules, who skirts compliance requirements, and who pleads "hardship" is where the most frequent noncompliance and outright violations occur.

Concerning the above proposed registration fee increase, and subsequently, our projected increased operational cost, I strongly suggest that a public hearing be scheduled for gathering additional information and the public's reaction to such change.

Thank you for your consideration.

Sincerely,

E. C. Bressler, R.T., B.A., FASRT
Administrator, Medical Imaging

ECB/sh

P.S. I would appreciate being put on a mailing list concerning notice of a hearing date.

Equal Opportunity Employer



AUG 0 6 1990

Environmental Health
Radiation Control

August 3, 1990

Mr. William P. Breitenstein
Radiation Control Section
Minnesota Department of Health
925 Delaware Street
Minneapolis, Minnesota 55440

Dear Mr. Breitenstein:

I am writing in response to the new proposed rules of the Minnesota Department of Health governing ionizing radiation fees (MN Rules, Part 4730.0600).

I wholeheartedly support the state's efforts in reducing radiation exposures to the general public by assuring that X-ray equipment is operating appropriately. I truly feel that the citizens of Minnesota have every right to expect that their state will provide a radiation safety program that assures that they will not be subjected to excess radiation. It has long been my impression that Minnesota needs to revise its regulations to current acceptable standards. I have also observed in the past several years, as a private consultant evaluating X-ray equipment, that there are a large number of X-ray units located in small offices and clinics with absolutely no quality control program. This indicates there is a tremendous need for some kind of ongoing inspection process. This is particularly a problem with facilities that do not have an independent organization such as JCAHO monitoring their policies and procedures.

However, it has been my experience with larger institutions that utilize medical physicists to check their X-ray equipment are doing so much more frequently than what the current state guidelines require. I believe this can be attributed to the institution's concern for patient safety, radiologic image quality, and participation in ongoing accreditation programs like JCAHO.

Your new fee schedule will place an unfair financial burden on those facilities which already meets or exceeds the states requirements by using an in-house or consulting medical physicist. Possibly a more reasonable approach would be to set a maximum charge per institution at some fixed number of X-ray tubes. You should consider an option where your state radiation specialists would perform a periodic audit on the quality assurance work performed by the institution. The radiation specialists then only needs to evaluate a portion of the X-ray equipment to verify the quality of the institutions program.

Miller-Dwan Medical Center

502 East Second Street • Duluth, Minnesota 55805 • (218) 727-8762

Hopefully, a program could be worked out where an institution with medical physics support could receive some consideration for their ongoing quality control program. Reinstitution of a maximum fee cap would be appropriate for these facilities. If this cannot be done then it is my personal preference that a hearing be held in order that we might provide a more equitable program to somehow compensate those institutions that already meet or exceed the requirements of the state law.

Sincerely,

J. Douglas Bennett

J. Douglas Bennett, M.S.
Medical Physicist

JDB/dks

ST. PAUL RADIOLOGY, PROFESSIONAL ASSOCIATION

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BUSINESS MANAGER
DAVID R. ADAMS

AUG 0 7 1990

Environmental Health
Radiation Control

August 3, 1990

Mr. William Breitenstein
Radiation Control Section
Environmental Health Division
Minnesota Department of Health
925 Delaware Street Southeast
Minneapolis, MN 55459

Dear Mr. Breitenstein,

This letter is written in response to the proposed rules of the Minnesota Department of Health governing ionizing radiation registration fees (MN rules part 4730.0600).

After reviewing the proposed changes in the fee structure with my colleagues, as well as members of our hospital administration, I would like to recommend that a "maximum fee per facility" be reinstituted. Lack of a "maximum fee per facility" would place an unfair burden on the larger institutions with many tubes.

Many of the tubes in a larger institution are checked by either the institution's physicist or an outside physicist at a frequency more often than done by the Department's inspections. If all these tubes are not actually checked by a State inspector, but rather evaluated by review of records of the licensed physicist, a small fee might be charged as license fee for those tubes which were "reviewed and not inspected".

In conclusion, we would oppose the proposed changes, and support reverting to a fee structure that would not place an unfair burden on those larger institutions which have a quality control program, utilizing licensed physicists, which meets the requirements of the State governing ionizing radiation.

Sincerely,

Allen V. Bergh, M.D.
President

Mayo Foundation Rochester, Minnesota 55901 Telephone 507 284-2511

August 8, 1990

Mr. William Breitenstein
Radiation Control Section
Environmental Health Division
Minnesota Department of Health
925 Delaware Street S.E.
Minneapolis, Minnesota 55459

AUG 0 8 1990
Environmental Health
Radiation Control

Dear Mr. Breitenstein:

On behalf of the Mayo Clinic I am writing to suggest modifications to the "Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation" and the Notice of Intent published in the State Register (Monday, July 9, 1990, pages 41-44) and to request a public hearing. After reviewing the information in the State Register and the Statement of Need and Reasonableness, there appears to be a need to increase the revenues generated by the Radiation Control Section of the Minnesota Department of Health to cover the costs of inspections provided by your group. However, we feel the cost of the program is overstated by requiring more extensive monitoring than is required to protect public health. MHD inspection is duplicative for many of the larger facilities in Minnesota which already supply monitoring and testing as part of their in-house quality control and radiation protection programs.

Mayo Foundation, including Mayo Clinic, Saint Marys Hospital, Rochester Methodist Hospital, and four smaller facilities where we provide services, spent approximately $1,800.00 under the old fee structure for registration of our x-ray systems. Under the new fee structure, due primarily to the elimination of the "maximum fee per facility", we would be required to pay approximately $20,300.00 annually. As noted above, we already have an in-house program which monitors not only radiation output and safety of x-ray equipment, but also image quality and patient exposure. Review or audit of our records would demonstrate compliance with all applicable state regulations. Consequently, we would suggest that in place of your inspectors evaluating all of our x-ray equipment they could audit our records, thereby significantly reducing the time required by your staff at our facilities. Such a reduction in effort by your staff could then justify maintaining a cap on per facility charges based on some number of x-ray tubes, e.g., 10 tubes, on which we would pay the normal fees per tube.

Such a program would help recognize those facilities with medical physics support. It may be used to encourage the development of similar, additional programs. In fact, these programs are more beneficial since they provide more frequent monitoring of image quality and radiation safety, typically annually, compared to the state mandated inspection once every four years.

Based on the above, we would encourage inclusion of a cap on the number of x-ray tubes that are subject to state fees. Without the cap, many larger facilities will be required to pay for your services, a duplication of services already provided by medical physicists at those facilities. Consequently, we would request that a hearing be held in order that the Minnesota Department of Health hear the concerns of the major medical providers in the State of Minnesota prior to considering further action regarding the "Proposed Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation."

Sincerely,

Robert Avant M.D.

Robert F. Avant, M.D., Chairman
Public Affairs Committee - State

RFA:net
G. S. Forbes, M.D.

Late

St. Paul·Ramsey Medical Center

RAMSEY

Jackson at University
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Department of Medical Imaging

August 6, 1990

AUG 13 1990
Environmental Health
Radiation Control

Mr. William Breitenstein
Radiation Control Section
Environmental Health Divison
Minnesota Department of Health
925 Delaware Street S.E.
Minneapolis, MN 55459

Re: Proposed Rules Change, Registration Fees (4730.06)

Dear Mr. Breitenstein:

I have a copy of the proposed permanent rules relating to registration fees for sources of ionizing radiation from the Department of Health dated 6-21-90. Some concern has been generated on the part of providers as to the possible significant increased costs to a facility such as ours with the apparent open ended system of fees applied to medical x-ray units at $64 a unit. Based on the information that I have I can really not speak to the appropriateness of the fee itself but it seems that the policy of "unlimited" application of this fee in facilities that have a large number of tubes and sources of radiation is somewhat unfair.

As Radiation Safety Officer at St. Paul-Ramsey Medical Center I would like to request some clarification of this whole policy and would like to request consideration of hearings on the possibility of capping this charge at some maximum fee per "facility". Thank you for your considerations.

Sincerely,

David A. Swanson, M.D.

DAS:ew

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