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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Radiological Health
<b>Contact Person:</b>	Beth Murphy
<b>Address:</b>	3 <sup>rd</sup> Floor L & C Annex 401 Church Street Nashville, Tennessee 37243-1532
<b>Phone:</b>	(615)532-0392
<b>Email:</b>	<a href="mailto:beth.murphy@tn.gov">beth.murphy@tn.gov</a>

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	ADA Coordinator
<b>Address:</b>	12 <sup>th</sup> Floor, L&C Tower 401 Church Street Nashville, Tennessee 37243
<b>Phone:</b>	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
<b>Email:</b>	<a href="mailto:beverly.evans@tn.gov">beverly.evans@tn.gov</a>

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	17 <sup>th</sup> Floor Conference Room, L & C Tower		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	03/30/10		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CDT	<input type="checkbox"/> EDT

**Additional Hearing Information:**

Oral or written comments are invited at the hearing. In addition, written comments may be submitted to Beth Murphy at the Division of Radiological Health, Central Office, address below, prior to or following the public hearing. However, the Division must receive comments in its Central Office by 4:30 p.m. (CST), March 31, 2010, in order to assure consideration.

Copies of draft rules are available for review in the Public Access Areas of the following Departmental Environmental Assistance Centers:

Nashville Field Office  
 711 R. S.Gass Boulevard  
 Nashville, TN 37243  
 (615) 687-7000 / 1-888-891-8332

Knoxville Field Office  
 3711 Middlebrook Pike  
 Knoxville, TN 37921  
 (865) 594-6035 / 1-888-891-8332

Chattanooga Field Office  
State Office Building  
540 McCallie Avenue, Suite 550  
Chattanooga, TN 37402-2013  
(423) 634-5781 / 1-888-891-8332

Memphis Field Office  
Perimeter Park  
2510 Mt Moriah Road, Suite E-645  
Memphis, TN 38115-1520  
(901) 368-7939 / 1-888-891-8332

Copies are available for review also at the Division of Radiological Health, Central Office:

Division of Radiological Health  
L & C Annex, Third Floor  
401 Church Street  
Nashville, TN 37243-1532  
(615) 532-0364

The "DRAFT" rules may be accessed for review also at the Department's World Wide Web Site located at <http://www.state.tn.us/environment/rad>.

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-02-10	Licensing and Registration
Rule Number	Rule Title
1200-02-10-.24	Registration
1200-02-10-.31	Fees for Licenses

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-02-10  
Licensing and Registration

Amendments

Paragraph (2) of Rule 1200-02-10-.24 Registration is amended by deleting it in its entirety and replacing it with the following so that, as amended, paragraph (2) shall read as follows:

- (2) (a) Except for those radiation machines described in subparagraph (b) of this paragraph, an annual registration fee will be due the first working day following January 1 of each year as long as the radiation machine or service is subject to registration. Each registrant shall submit the annual fee payable to, "Treasurer, State of Tennessee," in the appropriate dollar amount in accordance with the Classification and Fee Schedule in 1200-02-10-.24(3) to the Division of Radiological Health. Payment shall be accompanied by a copy of the fee invoice properly completed. The invoice for the annual fee will be dated January 17 and will require payment by March 17 of the indicated year. At the time of the annual payment a registrant of only Class II radiation machines may request specific times or list restricted hours during normal work hours for inspections pursuant to 1200-02-10-.27 by personnel of the Division of Radiological Health, Tennessee Department of Environment and Conservation.
- (b) X-ray machines owned or possessed by public safety agencies of any county, city, municipality or any area operating under a metropolitan form of government, are exempt from paying the fees of this rule. As used in this rule, "public safety agencies" shall mean those units (typically known as bomb squads) of the above governmental entities whose purpose is the protection of the general

public from explosive devices and that use the radiation machines only to detect and/or inspect explosive devices and not any other purposes including, but not limited to, detecting weapons or medical diagnosis.

Subparagraph (a) of paragraph (3) of Rule 1200-02-10-.24 Registration is amended by deleting the subparagraph and substituting the following so that, as amended, subparagraph (a) shall read as follows:

(a) Radiation Machines

CLASS I

Dental Radiation Machines: \$100.00 per tube

All diagnostic equipment used exclusively for dental diagnostic procedures.

CLASS II

Priority Two Medical Radiation Machines: \$200.00 per tube

All medical diagnostic x-ray equipment, not in Class III, used exclusively for medical or veterinary diagnostic procedures.

CLASS III

Priority One Medical Radiation Machines: \$350.00 per tube

All diagnostic x-ray equipment used in radiologists' offices, orthopedic surgeon's offices or hospitals exclusively for medical diagnostic procedures.

CLASS IV

Therapy Medical Radiation Machines: \$450.00 per tube

All x-ray equipment with energies less than 0.9 MeV used for the purpose of medical or veterinary radiation therapy.

CLASS V

Priority Two Industrial and Educational Radiation Machines: \$700.00 per tube

Closed-beam analytical radiation machines, gauges or industrial radiation machines used in shielded room or cabinet radiography.

CLASS VI

Priority One Industrial and Educational Radiation Machines: \$1,000.00 per tube

All x-ray machines used for industrial radiography and all open-beam analytical x-ray machines and all radiation machines not specifically included in Class I, II, III, IV, V, VII.

CLASS VII

Accelerators: \$2500.00 annual fee, plus an initial fee of \$375.00 per maximum nominal rated MeV for initial certified

All devices defined as accelerators as per "State Regulations for Protection Against Radiation."

registration review (initial review fee not to exceed \$150,000.00)

Subparagraph (b) of paragraph (3) of Rule 1200-02-10-.24 Registration is amended by deleting the subparagraph and substituting the following so that, as amended, subparagraph (b) shall read as follows:

- (b) A person providing inspection services as permitted by paragraph (4) of Rule 1200-02-10-.27, except as provided by subparagraph (3)(f) of Rule 1200-02-10-.24, shall pay an annual registration fee of seven hundred dollars. \$700.00

Subparagraph (c) of paragraph (3) of Rule 1200-02-10-.24 Registration is amended by deleting the subparagraph and substituting the following so that, as amended, subparagraph (c) shall read as follows:

- (c) A person providing assembly/installation/servicing, except as provided by subparagraph (3)(f) of Rule 1200-02-10-.24, shall pay an annual registration fee of seven hundred dollars. \$700.00

Subparagraph (f) of paragraph (3) of Rule 1200-02-10-.24 Registration is amended by deleting the subparagraph and substituting the following so that, as amended, subparagraph (f) shall read as follows:

- (f) A person providing inspection services, as permitted by paragraph (4) of Rule 1200-02-10-.27, or a person providing assembly/installation/servicing, who is a staff member of the facility registered pursuant to Tennessee Code Annotated (T.C.A.) § 68-202-101 et seq. and these Regulations, and who performs such inspection services or assembly/installation/servicing only for that registrant, shall pay an annual registration fee of seven hundred dollars.

The last paragraph of Rule 1200-02-10-.24 Registration is amended to correct the duplication in numbering by re-designating the second paragraph (6) as paragraph (7).

Paragraph (6) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$150.00" from the paragraph and replacing it with "\$350.00" so that, as amended, paragraph (6) shall read as follows:

- (6) CATEGORY GL ----- \$350.00
- Any person possessing radioactive material, under the terms of any general license issued these regulations, in a form or device on which a test for leakage of radioactive material is required.

Paragraph (7) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$300.00" from the paragraph and replacing it with "\$350.00" so that, as amended, paragraph (7) shall read as follows:

- (7) CATEGORY 1 ----- \$350.00
- A specific license for source material used exclusively for shielding radiation.

Paragraph (8) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$600.00" from the paragraph and replacing it with "\$700.00" so that, as amended, paragraph (8) shall read as follows:

- (8) CATEGORY 2 ----- \$700.00
- (a) Reserved.
- (b) The application, use or possession of radioactive material as chromatography sources or gauges not requiring assignment to another category.
- (c) The application, use or possession of radioactive material for in vitro use only, total quantity not to exceed 200 microcuries.

- (d) Any person who packages or containerizes, loads transport vehicles or ships radioactive materials to a licensed disposal/processing facility in Tennessee. In addition to application and annual maintenance fees, there is also levied a fee of one and one-half cent per pound (\$0.015/lb) on all items contaminated or potentially contaminated with radioactive material or on low-level radioactive waste received at a processing, storage, disposal or refurbishing facility in Tennessee.

Notwithstanding the requirements of this paragraph and Rule 1200-02-10-.32, licensees with multiple sites within the state will be levied only one fee if items are moved directly from one site to another.

The operator of the disposal/processing facility shall collect the fee of one and one-half cent per pound (\$0.015/lb). For each calendar month, he shall remit the total of fees collected for the month to the Division of Radiological Health by the 25<sup>th</sup> day of the following month.

- (e) The application, use or possession of radioactive material for the calibration for hire of radiation detection, monitoring and measuring instruments.
- (f) The performance for hire of leak tests on sealed sources of radioactive material.

Paragraph (9) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$900.00" from the paragraph and replacing it with "\$1000.00" so that, as amended, paragraph (9) shall read as follows:

- |     |   |            |
|-----|---|------------|
| (9) | CATEGORY 3 -----  | \$1,000.00 |
| (a) | The application, use or possession of radioactive material, unless specific to a higher numbered category, by an academic institution, but does not include licenses authorizing all radioisotopes with atomic number 3 through 83. |            |
| (b) | The possession and use of radioactive material for civil defense activities.  |            |
| (c) | The application, use or possession of radioactive material by a medical, institution or physicians for use in radiopharmaceuticals for the diagnosis or therapy of humans.  |            |
| (d) | Reserved.   |            |
| (e) | Reserved.   |            |
| (f) | Reserved.   |            |
| (g) | The application, use or possession of radioactive material for demonstration or training purposes.  |            |
| (h) | The application, use or possession of radioactive material for in vitro use only, total quantity exceeding 200 microcuries.   |            |
| (i) | The use of sealed sources for soil and/or construction materials testing at temporary job-sites by licensees with licensed authorization for no more than two (2) devices.  |            |
| (j) | The use of radioactive material as chromatography sources at temporary job-sites by licensees with licensed authorization for no more than two (2) devices.   |            |

- (k) The use of gauging and measuring devices at temporary job-sites by licensees with licensed authorization for no more than two (2) devices.

Paragraph (10) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$1500.00" from the paragraph and replacing it with "\$1800.00" so that, as amended, paragraph (10) shall read as follows:

- |      |  |            |
|------|--|------------|
| (10) | CATEGORY 4 -----   | \$1,800.00 |
|      | (a) The application, use or possession of radioactive material by a medical institution or physicians for interstitial, intracavitary or superficial treatment of humans using sealed sources, seeds or wires. |            |
|      | (b) The application, use or possession of radioactive material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-contained irradiators).                 |            |
|      | (c) The application, use or possession of radioactive material for analytical testing purposes.  |            |

Paragraph (11) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$2100.00" from the paragraph and replacing it with "\$2500.00" so that, as amended, paragraph (11) shall read as follows:

- |      |  |            |
|------|--|------------|
| (11) | CATEGORY 5 -----   | \$2,500.00 |
|      | (a) The use of radioactive material in research and development, manufacturing, testing, processing and assembling of products. This group includes the use of source material in the manufacture of items such as mantles, alloys, gases, liquids, metals, ceramics, glass or photographic products.      |            |
|      | (b) The use of radioactive material in a process that incorporates that material into a product in exempt concentrations.  |            |
|      | (c) The possession and use of radioactive material in curie quantities in a number of sources in gauges and gauging applications that require frequent changes and therefore frequent review of the program to ensure that the hazard potential does not exceed the scope of the radiation safety program. |            |
|      | (d) The use of a single radioactive material in the fabrication of sealed sources or ampoules.   |            |
|      | (e) The receipt of prepackaged radioactive material waste from other persons by a nuclear waste handler for storage for less than three (3) months before, transfer only to persons licensed to receive or dispose of the material.  |            |
|      | (f) The use of sealed sources for soil and/or construction materials testing at temporary job-sites by licensees with licensed authorization for more than two (2) devices.  |            |
|      | (g) The use of radioactive material as chromatography sources at temporary job-sites by licensees with licensed authorization for more than two (2) devices.   |            |
|      | (h) The use of gauging and measuring devices at temporary job-sites by licensees with licensed authorization for more than two (2) devices.  |            |

- (i) The application, use or possession of radioactive material by a medical institution or physicians for the treatment of humans with sealed sources contained in teletherapy devices.
- (j) The application, use or possession of radioactive material by a veterinarian for the treatment of animals using sealed sources, seeds or wires.

Paragraph (12) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$6,000.00" from the paragraph and replacing it with "\$7,200.00" so that, as amended, paragraph (12) shall read as follows:

- |   |                  |            |
|---|------------------|------------|
| (12)  | CATEGORY 6 ----- | \$7,200.00 |
| <ul style="list-style-type: none"> <li>(a) The application, use or possession of radioactive material including source and/or special nuclear material in unsealed form in less than multi-curie quantities for use in the fabrication of sealed sources without regard to amount of contained radioactivity.</li> <li>(b) The manufacture of devices and/or sources that require in-depth review before approval by the Division. Each device and/or source reviewed shall be subject to this fee.</li> <li>(c) The preparation, use or distribution of radiopharmaceuticals to locations other than the licensee's address for use in medical diagnosis or therapy.</li> <li>(d) The use of radiography (the examination of the structure of materials by nondestructive methods using radioactive material) on the licensee's premises in a permanent shielded facility or temporary job-sites.</li> <li>(e) The possession and use of radioactive material by academic and medical institutions under a license authorizing all radioisotopes with atomic numbers 3 through 83.</li> <li>(f) Reserved.</li> <li>(g) The application of radioactive material to soil, water, air, plants and animals, if the application involves an actual or potential release in or to unrestricted areas.</li> <li>(h) The possession, use and distribution of radioactive material at one or more satellite facilities, or the possession and use of radioactive material at one or more satellite facilities, by medical institutions.</li> <li>(i) The application, use or possession of radioactive material by a medical institution or physicians for research using humans and/or animals.</li> </ul> |                  |            |

Paragraph (13) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$4,000.00" from the paragraph and replacing it with "\$4,800.00" so that, as amended, paragraph (13) shall read as follows:

- |  |                  |            |
|--|------------------|------------|
| (13)   | CATEGORY 7 ----- | \$4,800.00 |
| <ul style="list-style-type: none"> <li>(a) Reserved.</li> <li>(b) Reserved.</li> <li>(c) The application, use or possession of radioactive material for well logging, well surveys or tracer studies.</li> </ul> |                  |            |

Paragraph (14) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$11,250.00" from the paragraph and replacing it with "\$13,500.00" so that, as amended, paragraph (14) shall read as follows:

- (14) CATEGORY 8 ----- \$13,500.00
- (a) The receipt of radioactive material waste from other persons by a nuclear waste handler, for the purpose of packaging or repackaging the material prior to transfer only to persons licensed to receive or dispose of the material.
  - (b) The commercial collection, laundering or dry cleaning of wearing apparel that is contaminated with radioactive material.

Paragraph (15) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$15,000.00" from the paragraph and replacing it with "\$18,000.00" so that, as amended, paragraph (15) shall read as follows:

- (15) CATEGORY 9 ----- \$18,000.00
- (a) The possession of radioactive material or equipment contaminated or potentially contaminated with radioactive material as a result of operations involving the recovery of an element, compound or mixture from ores not subject to licensure because of the radioactive material content of the ore.
  - (b) Facilities that possess radioactive material as a result of operations (not directly involving radioactive decontamination activities) involving recovery of materials or other manufacturing processes (not directly manufacturing radioactive items or products).

Paragraph (16) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$22,500.00" from the paragraph and replacing it with "\$27,000.00" so that, as amended, paragraph (16) shall read as follows:

- (16) CATEGORY 10 ----- \$27,000.00
- (a) Facilities storing radioactive material, contaminated equipment and/or potentially contaminated equipment for transfer to authorized recipients as a service to the nuclear industry.
  - (b) Possession and refurbishment of contaminated equipment and/or potentially contaminated equipment that has been used at nuclear power plants.

Paragraph (17) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$30,000.00" from the paragraph and replacing it with "\$36,000.00" so that, as amended, paragraph (17) shall read as follows:

- (17) CATEGORY 11 ----- \$36,000.00
- (a) The collection, transfer, sorting and/or brokerage of radioactive material as sealed source, residue, product or as material in or on equipment; and/or  
 The decontamination of products and/or equipment containing radioactive material and/or contaminated with radioactive material; and/or  
 The possession, storage and incineration of radioactive material or items contaminated with radioactive materials.
  - (b) On site possession and storage of radioactive material and/or equipment contaminated with radioactive material as a result of operations involving the recovery of an element, compound or mixture from ores subject to licensure because of the radioactive material content of the ore or concentration of the radioactive material during the processing of the ore.

- (c) Facilities involved in the manufacture of product lines containing radioactive material in the manufactured product.
- (d) Possession of radioactive material for processing. This material may exist in ores, concentrates, compounds or metals.
- (e) The possession of multi-curie quantities of unsealed radioactive material either as waste or for further processing and/or conversion into specific marketable products.
- (f) Operations involving the fabrication of sealed sources or manufacture of compounds for distribution to other specific or general licensees.
- (g) The possession and use of radioactive material in a sealed source for irradiation of materials in which the source is exposed for irradiation purposes (non self-contained irradiators).

Paragraph (18) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$375,000.00" from the paragraph and replacing it with "\$450,000.00" so that, as amended, paragraph (18) shall read as follows:

- (18) CATEGORY 12 ----- \$450,000.00
- (a) The application for and/or operation of a low-level radioactive waste disposal facility.
  - (b) The maximum length of reviewing time (the period of time when there are no outstanding unanswered questions) after receipt of a new application and the appropriate fee for a Category 12 specific license and the issuance of a license is 60 months.

Paragraph (19) of Rule 1200-02-10-.31 Fees for Licenses is amended by deleting "\$150.00" from the paragraph and replacing it with "\$200.00" so that, as amended, paragraph (19) shall read as follows:

- (19) CATEGORY 13 ----- At least \$150.00  
\$200.00 not greater  
than \$375,000.00
- The application, use or possession of radioactive material for uses or procedures not specifically included in any other category.
- The fee shall be determined on a case-by-case basis.
- The determination shall be based on an analysis of the hazard, the scope of the difficulty encountered in the review process and the specifics of the activity pursuant to the categories established in paragraphs (6) through (18) of this rule.

Rule 1200-02-10-.31 Fees for Licenses is amended by adding paragraph (20) so that, as amended, paragraph (20) shall read as follows:

- (20) CATEGORY ----- \$50,000.00  
FUEL FACILITIES
- Persons operating facilities for the fabrication of nuclear fuel shall pay fees to cover the costs of programs related to the activities of the facility.

Rule 1200-02-10-.31 Fees for Licenses is amended by adding paragraph (21) so that, as amended, paragraph (21) shall read as follows:

(21) CATEGORY \_\_\_\_\_ \$50,000.00  
NUCLEAR  
POWER PLANTS

Persons engaged in the business of producing electricity by utilizing nuclear energy shall pay fees to cover the costs of programs related to the activities of the facility.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



My Commission Expires NOV. 7, 2012

Date: February 3, 2010

Signature: Debra G. Shults

Name of Officer: Debra G. Shults

Title of Officer: Deputy Director

Subscribed and sworn to before me on: 2/3/10

Notary Public Signature: Wanda Powers

My commission expires on: 11/7/2012

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Filed with the Department of State on: 2/3/10

Tre Hargett

Tre Hargett  
Secretary of State

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