

FURTHER INFORMATION ON RADIATION CONTROL REGULATION

Fee increase

The Regulatory Impact Statement (RIS) revealed that the Environment Protection Authority (EPA), now part of the Department of Environment and Conservation (DEC), was not recovering the State's costs under the *Radiation Control Regulation 1993*. The details of the minimum reasonable costs of implementing the Act and the determination of individual fees were fully set out in the RIS for the draft Regulation.

The fees for regulatory instruments were increased to achieve full cost recovery, which will enable the DEC to meet NSW Treasury's *Guidelines for Price of User Charges*, requiring government agencies to recover costs through fees for regulatory instruments. In addition it will enable the DEC to implement recommendation 18 of the National Competition Policy (NCP) Review of Radiation Protection Legislation that 'jurisdictions should recover the cost of their regulatory oversight from licensing and registration fees except for activities of the regulatory authorities that are of a public good nature'.

These increases have been accepted as reasonable by almost all of the regulated community. Of the 16,000 fee payers individually notified of the proposed increases, only 9 raised concerns. As you will see from the RIS, the fees are not large and are generally tax deductible.

Registration of premises

The University of Sydney's submission on the RIS expressed concern about the potential cost to the University of registration of premises where radioactive substances are kept or used. In particular, the University commented that the cost of registering premises was underestimated and that the registration process needed to be simplified.

The DEC acknowledges that the implementation of the registration of premises will present particular issues that are unique to universities and hospitals because of the number and diversity of the laboratories using unsealed radioactive sources.

The proposed registration application fee of \$155 was determined on the basis of cost recovery for the administration of the system of registration provided by the Act. The determination was made on the basis that the administration of the registration system would be the same as that for registration of diagnostic imaging apparatus, which was implemented under the *Radiation Control Regulation 1993*.

A key factor in the registration of premises will be defining what constitutes a single unit of premises for registration. The RIS and the submission from the University of Sydney, suggest that each individual laboratory will be a registrable unit with additional fees for certification of compliance with registration requirements.

However, the DEC intends to group and defined premises by criteria, such as the activities carried out in the laboratory, physical proximity of multiple laboratories (which may be grouped as one premise) or the licensing of a responsible person who is required to provide an auditable safety manual.

In response to concerns about this issue, the DEC conducted a comparison of the definition of a premise and the registration fees charged for equivalent functions in the other Australian jurisdiction. The results, provided in **Attachment 2**, show that the proposed fee for registration of premises in New South Wales compares favourably with the fees currently applied in the other jurisdictions.

Third Party Assessors

In its submission on the RIS the University of Sydney also commented on the use of third party assessors known as Consulting Radiation Experts (CREs), for certifying compliance with premises registration requirements. This system is in place for the registration of fixed radiation gauges and diagnostic imaging apparatus and is of great safety benefit for NSW.

Initially registration of premises will not require compliance assessment or certification, therefore, owners will not be required to engage a CRE for compliance testing. When compliance certification is implemented in the future, the fees charged by CREs for these services will be determined by the market and are independent of the DEC.

Security Issues

Premises such as laboratories where unsealed radioactive substances are kept or used contain radiation materials that could readily be accessed and used illegally or inappropriately. Given the worldwide security concerns about misuse of radiation by terrorists, the DEC is concerned about security and safety of these sources. There is therefore an urgent need to increase the level of resources allocated to the management of regulation and compliance of these premises in New South Wales. The provisions of the Regulation will hence increase radiation safety for our citizens.

**COMPARISON OF PREMISES REGISTRATION FEES AND DEFINITION OF A
PREMISE**

1 State Fee Comparison

| JURISDICTION | COST PER YEAR |
|---------------------|--|
| New South Wales | \$155 for the first two years and \$52.50 thereafter |
| South Australia | \$143 in first year and \$90.50 thereafter |
| Queensland | \$260 in first year, \$160 subsequently. Varies with the number of isotope types that are used |
| Western Australia | \$92.33 to \$830, depending on the total radioactivity used on the premises |

2 South Australia

Provision requiring the registration of premises is in section 29 of the South Australian *Radiation Protection and Control Act 1982* – ‘Registration of premises in which unsealed radioactive substances are handled or kept’.

The authority to collect the fees for registration is in the *Radiation Protection and Control (Ionising Radiation) Regulations 2000*, Division 7 (clauses 170, 171, 172) and the conditions applying to the registration of premises (fume cupboards, etc) are in Division 8 ‘Special requirements for premises’, clauses 173 – 178.

The actual fee structure is in Schedule 4 ‘Fees’ of the Regulations. The costs are:

| | | |
|------------------|-----------|----------|
| Application fee | | \$52.50 |
| Registration fee | (1 year) | \$90.50 |
| | (3 years) | \$271.00 |
| Renewal | (1 year) | \$90.50 |
| | (3 years) | \$271.00 |

The South Australian Radiation Safety Branch has advised the NSW DEC that as many as 8 laboratories could be considered to be a single registrable unit for registration in that State. The key factor in determining this is that they are under the supervision of one licensed individual (in SA a single individual is the licensee of a premises and they are in turn held responsible for ensuring radiation safety in their area of licensed activity).

The Radiation Safety Branch in South Australia also advised that, if laboratories are on different floors of the same building, they are often considered to be separate registration units. If two laboratories are next to each other, they would be separately registered if they carry out research in widely different areas. An example is that of one laboratory conducting biological research, while the one next to it conducts engineering research.

However, there are no hard and fast rules and that some flexibility is required in implementing these registration requirements. An example of this is in the case of a small storage or research unit associated with a laboratory that is physically removed from it (by being on another floor or in another building). In this case, notwithstanding the separate physical location, they would be covered by the same registration.

A key to the South Australian system is the licensing of a single responsible individual with a requirement for an auditable safety manual (plan, safety case, etc). Generally, the registration unit is closely associated with the area of responsibility of this single licensed individual.

3 Queensland

In the Queensland *Radiation Safety Act 1999* and the *Radiation Safety Regulations 1999*, the requirement is for a licence to possess and, in the case of premises, this is a possession licence for '*Radiation practices carried out with radioactive substances*'. There is no registration – all categories are referred to as licences. The fees are given in Schedule 5 of the Regulation.

The fee structure is as follows:

| | |
|------------------------|--------------------|
| Application fee | \$100.00 |
| Licence fee | \$120.00 per year. |

The application fee of \$100.00 is payable on the first application for a licence in addition to the licence fee of \$120.00 per year. The cost thereafter is \$120.00 per year, independent of whether the licence is for one, two or three years duration.

In addition, there is a fee '*for each type of unsealed radioactive substance*', of \$10.00 per year for each type of substance. For a typical laboratory using four isotopes, the fees would therefore be \$260.00 for the first year and \$160.00 for each subsequent year.

The Queensland Radiation Safety Branch has advised that a single unit for registration in a university is an entire department, with a single licence holder covering the entire university, usually the Vice-Chancellor. Each department in the university is then required to have a separate safety plan under the one licence. The system proposed for NSW would have similarities to this.

4 Western Australia

The legislative requirement for the registration of premises is given in section 28 '*Registration*' of the *Radiation Safety Act 1975*. This requirement is placed on the owner of the premises (or any part of any premises) in which any radioactive substance is manufactured, used or stored. Included in this is any premises in which '*any irradiating apparatus or electronic product is used or operated*', or which is '*likely to be affected by the passage of waste from, or otherwise by the use of, any radioactive substance, irradiating apparatus or electronic produce*'.

The fees for registration of premises are given in clause 58 of the Regulations (regulation 58) and the particulars in Schedule XV of the Regulation. The costs of applying for and renewing a registration are the same and the applicant may have registration for one year or three, depending on their choice. However, the fees for registration of premises vary according to the level of activity of the radioactive substances used on the premises, in four categories.

| | | | |
|---------------|----------------|-----------------------|-------------|
| Up to 40 GBq | \$138 (1 year) | \$277 (three years) | \$92.33 pa |
| Up to 400 Gbq | \$277 (1 year) | \$553 (three years) | \$184.33 pa |
| Up to 4 TBq | \$553 (1 year) | \$1,106 (three years) | \$368.67 pa |
| Above 4 TBq | \$830 (1 year) | \$1,659 (three years) | \$553.00 pa |

In Western Australia, there is both registration and licensing for premises. In the case of a university, there is a single registration that is usually held by the Vice Chancellor. The licences are held by the person in charge of a research project or set of research projects, whichever is the most practicable to implement. It is most often the case that the licensee is the head of a department or the chief scientist of a section containing several laboratories under his or her supervision.