

25 TEXAS ADMINISTRATIVE CODE

§289.204

Fees for Certificates of Registration, Radioactive Material Licenses, Emergency Planning and Implementation, and Other Regulatory Services

(revisions effective September 7, 2014, are shown as **shaded** text)

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25 TEXAS ADMINISTRATIVE CODE

§289.204. Fees for Certificates of Registration, Radioactive Material Licenses, Emergency Planning and Implementation, and Other Regulatory Services.

(a) Purpose. The requirements in this section establish fees for licensing, registration, emergency planning and implementation, and other regulatory services, and provide for their payment.

(b) Scope. Except as otherwise specifically provided, the requirements in this section apply to any person who is the following:

(1) an applicant for, or holder of:

(A) a radioactive material license issued in accordance with §289.252 of this title (relating to Licensing of Radioactive Material), or §289.259 of this title (relating to Licensing of Naturally Occurring Radioactive Material (NORM)); or

(B) a general license acknowledgment issued in accordance with §289.251 of this title (relating to Exemptions, General Licenses, and General License Acknowledgments); or

(C) a certificate of registration for radiation machines and/or services, or sources of laser radiation, issued in accordance with §289.226 of this title (relating to Registration of Radiation Machine Use and Services), §289.230 of this title (relating to Certification of Mammography Systems and Mammography Machines Used for Interventional Breast Radiography), a certificate of registration for dental radiation machines in accordance with §289.232 of this title (relating to Radiation Control Regulations for Dental Radiation Machines), a certificate of registration for radiation machines used in veterinary medicine in accordance with §289.233 of this title (relating to Radiation Control Regulations for Radiation Machines Used in Veterinary Medicine), §289.234 of this title (relating to Mammography Accreditation), or §289.301 of this title (relating to Registration and Radiation Safety Requirements for Lasers and Intense-Pulsed Light Devices); or

(2) the holder of a fixed nuclear facility construction permit or operating license issued by the United States Nuclear Regulatory Commission (NRC) in accordance with Title 10, Code of Federal Regulations, Part 50; or

(3) the operator of any other fixed nuclear facility.

(c) Definitions. The following words and terms when used in this section shall have the following meaning, unless the context clearly indicates otherwise.

(1) Contiguous properties--Those locations adjacent to an existing licensed or permitted area.

(2) Decontamination services--Providing deliberate operations to reduce or remove residual radioactivity from equipment, facilities, and land owned, possessed, or controlled by other persons to a level that permits release of equipment, facilities, and land for unrestricted use and/or termination of a license.

(3) Emergency planning and implementation--The development and application of those capabilities necessary for the protection of the public and the environment from the effects of an accidental or uncontrolled release of radioactive materials, including the equipping, training and periodic retraining of response personnel.

(4) Fixed nuclear facility--The following are considered fixed nuclear facilities:

(A) any nuclear reactor(s) at a single site;

(B) any facility designed or used for the assembly or disassembly of nuclear weapons; or

(C) any other facility using special nuclear material for which the agency conducts off-site environmental surveillance and/or emergency planning and implementation to protect the public health and safety or the environment.

(5) Limited manufacturer--A manufacturer/distributor of radioactive material that is not required to submit a decommissioning funding plan or an emergency plan in accordance with §289.252 of this title.

(6) Processor of radioactive material--A manufacturer/distributor who converts normal form radioactive material into special form or a manufacturer/distributor of radioactive sealed sources.

(d) Payment of fees.

(1) Each application for a specific license, general license acknowledgement, or certificate of registration for which a fee is prescribed in subsection (e), (g), or (j) of this section shall be accompanied by a nonrefundable fee equal to the appropriate fee. Each request for evaluation of a sealed source and/or device shall be accompanied by a nonrefundable fee prescribed in subsection (f) of this section. Each application for accreditation of a mammography facility shall be accompanied by a nonrefundable fee prescribed in subsection (h) of this section. Each application for an industrial radiographer certification and an industrial radiographer examination shall be accompanied by a nonrefundable and non-transferable fee prescribed in subsection (i) of this section.

§289.204(d)(1)(A)

(A) An application for a license covering more than one category of specific license shall be accompanied by the prescribed fee for the highest category and 25% of the applicable prescribed fee for each additional requested category.

(B) An application for a certificate of registration covering more than one category shall be accompanied by the prescribed fee for the highest category.

(C) No application will be accepted for filing or processed prior to payment of the full amount specified.

(2) A nonrefundable fee, in accordance with subsection (e) of this section shall be paid for each radioactive material license and/or for each general license acknowledgement. The fee shall be paid every two years based on the month listed as the expiration month on the license or general license acknowledgement and shall be paid in full on or before the last day of the expiration month. In the case of a single license that authorizes more than one category of use, the fee shall be the prescribed fee for the highest license category plus 25% of the applicable prescribed fee for each additional license category authorized.

(3) A nonrefundable fee, in accordance with subsection (j) of this section, shall be paid for each certificate of registration for radiation machines and/or services, or sources of laser radiation. The fee shall be paid every two years based on the month listed as the expiration month on the certificate of registration and shall be paid in full on or before the last day of the expiration month. For certificates of registration with no specified expiration date, payment shall be paid in full on or before the due date stated on the invoice.

(4) In the case of a single certificate of registration that authorizes more than one category of machine/type of use, the category listed in subsection (j) of this section and assigned the higher fee will be used.

(5) An additional nonrefundable fee equal to 5% of the total fee for each specific license shall be paid with the specified fee by each holder of a specific license, excluding licensees that are authorized only for diagnostic nuclear medicine.

(A) The fees collected by the agency in accordance with this paragraph shall be deposited to the credit of the agency's Radiation and Perpetual Care Account.

(B) The agency shall collect the fees in accordance with this paragraph so long as the sum of the balances of the perpetual care accounts specified under Health and Safety Code, §401.307, does not exceed \$100 million; and if the sum of such balances subsequently is reduced to \$50 million or less, the agency shall reinstitute assessment of the fee until the sum of such balances reaches \$100 million.

(6) Each application for reciprocal recognition of an out-of-state license in accordance with §289.252(s) of this title, an out-of-state registration in accordance with §289.226 of this title, or an out-of-state laser registration in accordance with §289.301 of this title, shall be accompanied by the applicable fee, provided that no such fee has been submitted within 24 months of the date of commencement of the proposed activity.

(7) Each holder of a fixed nuclear facility construction permit or operating license or an operator of any other fixed nuclear facility shall submit an annual fee for services received. This fee shall recover for the State of Texas the actual expenses arising from environmental surveillance and emergency planning and implementation activities. Payment shall be made within 90 days following the date of invoice.

(8) Fee payments shall be in cash or by check or money order made payable to the Department of State Health Services. The payments may be made by personal delivery to the central office, Radiation Control, Department of State Health Services, 1100 West 49th Street, Austin, Texas, or mailed to Radiation Control, Department of State Health Services, P.O. Box 149347, MC 2003, Austin, Texas, 78714-9347.

(9) Any applicant requesting authorization for any of the categories in subsection (e) of this section for veterinary use will be assessed the fee for the corresponding category.

(e) Schedule of fees for radioactive material licenses. The following schedule contains the fees for radioactive material licenses:

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Category of License		Fee
(1)	Accelerator (Used for Production of Radioactive Material)	\$17,620.00
(2)	Agency-Accepted Training Course (Involving Possession of Radioactive Material)	\$4,230.00
(3)	Bone Mineral Analyzer	\$2,290.00
(4)	Broad License	\$23,810.00
(5)	Calibration Service (Survey Instrument)	\$1,950.00
(6)	Calibration/Reference Source	\$1,460.00
(7)	Decontamination Service	
	(A) Fixed Site	\$29,440.00
	(B) Mobile	\$9,650.00
(8)	Demonstration/Sales	\$4,410.00
(9)	Environmental Laboratory	\$1,800.00
(10)	Eye Applicator	\$1,800.00
(11)	Fine Leak Testing Device	\$5,540.00
(12)	Fixed Multi-Beam Teletherapy	\$9,910.00
(13)	X-Ray Fluorescence	\$2,290.00
(14)	Hand-held Light Intensifying Imaging Device	\$2,290.00
(15)	Gas Chromatograph	\$2,130.00
(16)	Gauge	
	(A) Spinning Pipe-Thickness/Portable	\$3,240.00
	(B) Fixed	\$3,410.00

Category of License		Fee
(17)	General License Acknowledgement-Gauge	\$1,410.00
(18)	Industrial Radiography (Fixed Facility)	\$8,490.00
(19)	Industrial Radiography (Temporary Field Site)	\$17,870.00
(20)	Installer, Repair, or Maintenance	\$3,600.00
(21)	Irradiator (Self-Contained)	\$4,690.00
(22)	Irradiator (Unshielded)	\$28,900.00
(23)	In-Vitro Use of Radioactive Material	\$1,090.00
(24)	In-Vitro Test Kit Manufacturer	\$5,660.00
(25)	Leak Test Service	\$2,130.00
(26)	Manufacturing and Commercial Distribution	
	(A) Processor of Radioactive Material	\$56,060.00
	(B) Other Manufacturing and Commercial Distribution	\$9,140.00
	(C) Commercial Distribution Only	\$4,230.00
	(D) Limited Manufacturing (Loose Material)	\$8,160.00
(27)	Medical Therapy (Sealed Source)	\$4,060.00
(28)	Medical Therapy (Unsealed Source)	\$3,410.00
(29)	Mineral Recovery (Byproduct Material)	\$76,930.00
(30)	Mobile Scanning Service	\$5,060.00
(31)	Naturally Occurring Radioactive Material (NORM)-Commercial Processing	\$29,440.00
(32)	Nuclear Medicine (Diagnostic)	\$3,620.00
(33)	Nuclear Pharmacy	\$8,160.00

Category of License		Fee
(34)	Neutron Generator Target (Sealed)	\$5,920.00
(35)	Pacemaker	\$1,320.00
(36)	Pipe Joint Collar Marker	\$2,610.00
(37)	Radiopharmaceutical Manufacturing	\$24,130.00
(39)	Remote Controlled Brachytherapy Device (Includes Low Dose-Rate and High Dose-Rate Remote Afterloaders and Intravenous Brachytherapy)	\$5,330.00
(39)	Research and/or Development	\$5,970.00
(40)	Source Material	\$4,410.00
(41)	Special Nuclear Material	\$2,610.00
(42)	Teletherapy	\$4,080.00
(43)	Tracer Studies (Used in Other Than Oil and Gas Industry Wellbores)	\$7,520.00
(44)	Tracer Studies (Used in Oil and Gas Industry Wellbores)	\$4,540.00
(45)	Well Logging	\$5,920.00
(46)	Other Specific License	\$2,980.00
(47)	Additional Authorized Use Sites Where Radioactive Material Is Stored or Used Under Same License or Where Only Records Are Stored	25% of Applicable Fee Not To Exceed 50 Additional Sites
(48)	Reciprocity	Fee of Applicable Category

(f) Fee for evaluation of a sealed source and/or device.

(1) Each time a manufacturer submits a request for evaluation of a unique sealed source, one of the following fees shall be paid:

(A) for an initial evaluation, a fee of \$5,320; or

(B) for an amendment requiring re-evaluation, a fee of \$2,660.

(2) Each time a manufacturer submits a request for evaluation of a unique device, one of the following fees shall be paid:

(A) for an initial evaluation, a fee of \$10,650; or

(B) for an amendment requiring re-evaluation, a fee of \$5,330.

(3) A manufacturer shall pay a \$1,000 record maintenance fee, beginning one year after initial sealed source and device authorization listing and every two years thereafter.

(4) No request for evaluation will be processed prior to payment of the full amount specified.

(g) Fees for certification of mammography systems and mammography machines used for interventional breast radiography. No application will be accepted for filing or processed prior to payment of the full amount specified in paragraph (1) of this subsection.

(1) An application for certification of mammography systems shall be accompanied by a nonrefundable fee of \$2,010. Additional mammography systems that have not been assigned a separate United States Food and Drug Administration (FDA) identification number shall be authorized on the same certification. A nonrefundable fee of \$240 for each additional mammography system on the same certification shall be included in the nonrefundable application fee.

(2) The annual fee for mammography systems is \$2,010. A fee of \$240 for each additional mammography system on the same certification shall be included in the annual fee.

(3) Fees for mammography machines used for interventional breast radiography shall be as follows:

(A) An application for certification of machines used for interventional breast radiography shall be accompanied by a nonrefundable fee of \$490. A nonrefundable fee of \$240 for each machine used for interventional breast radiography on the same certification shall be included in the nonrefundable application fee.

(B) The annual fee for machines used for interventional breast radiography is \$490. A fee of \$240 for each additional machine used for interventional breast radiography on the same certification shall be included in the annual fee.

(h) Fees for accreditation of mammography facilities.

(1) Each application for accreditation or re-accreditation of a mammography facility shall be accompanied by a nonrefundable fee. No application will be accepted for filing or processed prior to payment of the full amount specified in paragraph (2) of this subsection.

(2) Fees for accreditation of mammography facilities are as follows.

(A) The accreditation fee for the first mammography machine is \$1,025.

(B) The accreditation fee for each additional mammography machine is \$610.

(C) The fee for re-evaluation of clinical images due to failure during the accreditation process is \$330 per mammography machine.

(D) The fee for re-evaluation of phantom images due to failure during the accreditation process is \$300 per machine.

(E) The fee for an additional mammography review will be based on the number of clinical image sets reviewed and the type of review.

(F) The fee for reinstatement of a mammography machine is \$610.

(G) Each facility for which a targeted clinical image review is required will be charged for actual expenses to the agency arising from the visit.

(H) The fee for the review of clinical images for dual modality mammography machines, if utilized, is \$330 for the alternative modality.

(I) Each facility for which an on-site visit due to three denials of accreditation is required will be charged for actual expenses to the agency arising from such visit.

(J) Payment of the fees in subparagraphs (G) and (I) of this paragraph shall be made within 60 days following the date of invoice.

§289.204(i)

(i) Fees for industrial radiographer certification and for radiographer certification examinations.

(1) The nonrefundable and non-transferable application fee for examination shall be \$120 and shall be submitted to the agency with the application for examination.

(2) The nonrefundable application fee for radiographer certification shall be \$110 and shall be submitted to the agency with the application for radiographer certification.

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§289.204(j)

(j) Schedule of fees for certificates of registration for radiation machines, lasers, and services. The following schedule contains the fees for certificates of registration for radiation machines, lasers, and services. As of January 1, 2012, the fees for the dental radiographic only category and the veterinary category, as specified in the following schedule, are the applicable fees for those categories.

Category of Machine/Type of Use		Fee
(1)	Computerized Tomography (CT)	\$1,910.00
(2)	Fluoroscopy	\$940.00
(3)	Accelerator, Simulator, or Other Therapeutic Radiation Machine	\$1,910.00
(4)	Radiographic Machines Only	\$600.00
(5)	Podiatric Radiographic Only	\$420.00
(6)	Dental Radiographic Only	\$370.00
(7)	Veterinary, Including CT, Fluoroscopy, and Accelerators	\$290.00
(8)	Industrial Radiography	
	(A) Fixed Facility	\$1,960.00
	(B) Temporary Job Sites	\$3,280.00
(9)	Other Industrial	\$670.00
	(A) Diffraction	
	(B) Computerized Tomography	
	(C) Fluoroscopy	
	(D) Flash Radiography	
	(E) Hand-held Light Intensifying Image Devices	
(10)	Morgues and Educational Facilities Utilizing Radiation Machines for Non-human Use, Including CT, Fluoroscopy, and Accelerators	\$670.00
(11)	Minimal Threat Radiation Machines as Specified in 25 TAC §289.231(l)(3)	\$290.00
	(A) Cathodoluminescence	
	(B) Electron Beam Welding	
	(C) Fluorescence X-Ray	
	(D) Gauge - X-Ray	
	(E) Ion Implantation	
	(F) Package X-Ray	
	(G) Particle Size Analyzer - X-Ray	
	(H) Cabinet X-Ray (Certified)	
	(I) Other	

Category of Machine/Type of Use		Fee
(12)	Exposure Rate or Dose Measurements performed by a Licensed Medical Physicist as Specified in 25 TAC §289.226(b)(9)	\$290.00
(13)	Services as Specified in 25 TAC §289.226(b)(10)	\$290.00
	(A) Exposure Rate or Dose Measurements	
	(B) Radiation Machine Output Measurements	
	(C) Agency-Accepted Training Courses	
	(D) Calibration	
	(E) Demonstration/Sales	
	(F) Assembly, Installation or Repair	
	(G) Equipment Performance Evaluations on Dental Radiation Machines	
	(H) Provider of Equipment	
(14)	Laser - Medical/Research/Academic	\$230.00
(15)	Laser - Industrial/Services/Entertainment	\$400.00
(16)	Reciprocity	Fee of Applicable Category
(17)	Additional Authorized Use Location Where Radiation Machines or Services are Authorized Under the Same Registration	30% of Applicable Fee

(k) Annual fees for environmental surveillance and emergency planning and implementation. Fees shall be set annually by the agency for each facility. Fees for fixed nuclear facilities shall be the actual expenses for environmental surveillance and emergency planning and implementation activities. Costs of activities benefiting more than one facility shall be prorated.

(l) Failure to pay prescribed fees.

(1) In any case where the agency finds that an applicant for a license or certificate of registration has failed to pay the fee prescribed in this section, the agency will not process that application until such fee is paid.

(2) In any case where the agency finds that a licensee or registrant has failed to pay a fee prescribed by this section by the due date, the agency may implement compliance procedures as provided in §289.205 of this title (relating to Hearing and Enforcement Procedures).

(3) In any case where the agency finds that a fixed nuclear facility has failed to pay fees for environmental surveillance or emergency planning and implementation within 90 days following date of invoice, the agency may issue an order to show cause why those services should not be terminated.

(m) Electronic fee payments. Renewal payments may be processed through texas.gov or another electronic payment system specified by the agency. For all types of electronic fee payments, the agency will collect additional fees, in amounts determined by texas.gov to recover costs associated with electronic payment processing.