



January 14, 2019

Division of Health Service Regulation
Attn: Nadine Pfeiffer
2701 Mail Service Center
Raleigh, NC 27699-2701

Re: Aqua NC Public Comment to proposed amendment of rule 1106 (Jan 2019)

Ms. Pfeiffer,

Aqua North Carolina, Inc. (Aqua NC) hereby provides the following comments regarding proposed amendments to Radiation Protection Rule.

Official Comments:

Whereas no business wants to see an increase in fees or expenditures, without an accompanying increase in services or incoming revenue (respectively), Aqua NC understands and can appreciate the rationale for the need of an increase in radioactive material license fees as explained in the Fiscal Impact Analysis (FIA) report. As we do not fully understand the complete workings of the agency mission and its scope, the regulatory impact thereof, and the expenses incurred by it, Aqua NC cannot either agree or disagree with the new overall structure of license statuses or the proposed fee increases associated with them. We do agree that it would be of benefit for North Carolina and its RAM licensees for the State to retain its status as an Agreement State in the national materials regulatory program, especially in light of the increased economic impact and potential regulatory burden under NRC regulation.

Aqua NC does have several concerns with certain aspects of the new fee structure specifically to our license type (water remediation activities). We address these concerns below. For clarity, we have determined that our license would be categorized under the revised listing of "services, consultants, gauges (all types), or not specified above" having a new fee set at \$1860.00 (38% increase) annually.

First, Aqua NC is concerned as to how our additional well sites listed on our license will be assessed in determining our annual license fee as well as the overall yearly increase in the fee. Currently each listed site (after the first one) is assessed at a reasonable fixed fee of \$280.00; this fee is apparently added to the current "home office" fee of \$1350. Per our invoice received in July 2018, our annual fee was \$6950.00. Under the proposed fee structure, all licensed sites listed will be assessed as if they are a separate license {implied in proposed rule .1106 (d)}. This is realized as a 564% increase for those sites. Using this basis and the fact that we currently have approximately 40 sites, our anticipated licensing fee for July 2019 would be \$74,400.00 {40 x \$1860.00}. This is an increase of approximately 1070%. This percentage is on the order of the increases that would be seen under NRC regulation as stated in the Fiscal Impact Analysis and used to validate the economic importance to NC licensees of the State remaining an Agreement State. Note: our agreement with the agency of retaining Agreement State

status, as set out above, is not to be construed that we agree with this “level of increase” to affect such an outcome.

On page 17 of the Fiscal Impact Analysis report, last paragraph, the agency put forth a justification for the increased site fee as a means to recover cost associated with inspection of the sites. The justification was based on the fact that the “offices are spread out over a large geographic area” and thereby is implying a greater travel expense. A thorough review of our licensed sites (which are not offices) would reveal that:

- 43% of the sites are situated locally within Wake County (or very near the county line [e.g. Clayton]);
- 20% of the sites are situated in Cumberland County;
- 15% of the sites are situated in close proximity to each other in northern Guilford County
- 10% of the sites are near Lake Norman and in relative close proximity to each other; and
- 12% are outliers that have no nearby well site neighbors.

Even though the groupings of sites are geographically separated, all are well within an area that is easily travelled to and probably close to resident inspectors’ home-based offices. Furthermore, it was also implied in the same paragraph that these sites do not pose to be a complicated inspection process as they do not involve complex licensed activities. This is true, as NORM remediation systems are designed to run daily without continual in-residence operator oversight, have minimal radiation exposure and contamination impact; and are heavily regulated under North Carolina Department of Environmental Quality (NC-DEQ) for proper operation. The fact is that a site inspection would probably take less than 30 minutes to complete due to the limited items that would need to be reviewed. As such, many, if not all, sites in an area could be inspected within a single day. Based on these facts, we feel that the justification of inspection cost recovery for these sites does not support the new increased fee and how it is to be assessed.

Second, based on the 10-year history of our licensed program, it is anticipated that the number of sites needing NORM remediation will continue to increase each year; the result being an increase each year in our annual fee. As Aqua NC has no control over the level of NORM present in the well water used to provide potable water services to our customers and therefore no control over the number of sites in need of remediation, we essentially have no control over the sites to be added to the license and thereby the annual increase of this fee. As a regulated public utility, these fees will be passed on to our customers to who we are required by Federal and state legislation to provide potable water below the maximum contaminant limit. We accept the fact that due to the structure of our license, we receive increased fees annually; however, the proposed amounts, in view of the low-risk nature of our licensed activities do not appear to accurately reflect the associated risk. In comparison, it was noted that under paragraph (d) of the revised rule, mobile medical licensees would actually have each of their client site locations assessed at one-half their associated amounts specified in the revised paragraphs (a) or (b) of the rule. For these types of licensees, clearly there is a greater risk for radiation exposures and potential contamination, yet they will be allowed reduced site fees. This “exclusion” appears to be contrary to other statements in the

Fiscal Impact Analysis whereby the new fee assessment is to be fairly applied to all licensees, per our interpretation.

As another comparison, please consider the following:

Aqua NC has over 750 sites regulated by NC-DEQ which are assessed annual regulatory fees to the sum of \$ 254,880.00; in view of those regulatory fees our new RAM license fee of \$74,400 for 40 sites seems extreme and again hard for us to justify for our license type.

Third, it appears that many licensees will see no change in their annual fees over the proposed five-year time period affected (2019-2024) once the new fees are established. In contrary, Aqua NC will have adjustments each year which will have to be viewed as increased related expenses. If the adjustments were small, they would have minimal impact on our budgeting process; however, since the initial financial impact would be large and would continue to increase each year, this will not be the case. These expenses will have to be assessed and planned for as part of our operating budget each year. These budgets are heavily weighted to expenses that can be passed onto customers and the rates are approved by the North Carolina Utilities Commission. The result is that these types of related expenses are passed on to the rate paying customers and affecting private citizens.

Lastly, most businesses finalize their budgets in the 4th quarter of each year for the next operating calendar year; Aqua is finalized in September. For the currently proposed fee changes, implementation of the proposed rule in May 2019 for fee assessments to begin at the new rate in July 2019 will cause a significant fiscal impact for Aqua NC's compliance activities budget.

In closing we offer the following for consideration as changes to the rule prior to amendment:

- 1) Re-evaluation of the licensing structure for our type of license considering retaining it as a separate line item in the rule due to its low radiological impact (in comparison to the proposed fee).
- 2) Retain a line item for a smaller fee for the additional sites listed on our license. In Table 5 of the FIA report, it appears that the analysis did not take in account the additional sites as part of the estimated cost (column 7) and therefore the overall financial outcome should still be as is projected even without implementing this drastic site fee increase.
- 3) Delay full implementation of the new fees until calendar year 2020 so that the proposed fee levels can be budgeted appropriately, including requesting and receiving commission approval for adjusted rates to cover the expense.
- 4) If item 3 above cannot be implemented, consider adding a paragraph for staggered implementation over the next 2 calendar years that is based on the level of percentage increase so that those licensees significantly impacted budget accordingly.

Aqua NC appreciates your time reviewing and considering these comments before proceeding with final rule.

If you should have any questions regarding the comments above, please contact either Amanda Berger at aaowens@aquaamerica.com or Mr. Brian Hoffman at hoffmantechservices@gmail.com.

Best regards,

Amanda Berger

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Cc: Shannon Becker- President, Aqua North Carolina, Inc.