LCB File No. R149-07

PROPOSED REGULATION OF THE STATE BOARD OF HEALTH

EXPLANATION-Matter in *italics* is new; matter in brackets [omitted material] is material to be omitted.

Section 1 NAC 457.295 is hereby amended to read as follows:

NAC 457.295 Fees for certificates. (NRS 439.150, 457.065, 457.183, 457.184) The Health Division shall charge and collect the following nonrefundable fees:

- 1. For the issuance or renewal of a certificate for a machine, \$\frac{500}{551}.
- 2. For the issuance or renewal of a mammographer's certificate, \$\frac{180}{88}\$.
- 3. For the issuance or renewal of a certificate to provide training to mammographers pursuant to NAC 457.357, \$100.

Sec. 2 NAC 459.154 is hereby amended to read as follows:

NAC 459.154 Applications for registration; temporary use of portable machine. (NRS 439.150, 459.201)

- 1. Except as otherwise provided in subsection 2, each person who controls an unregistered, operational radiation machine shall apply to the Division for registration of the machine within 30 days after installing the machine.
- 2. A person who brings a portable machine into this State for a temporary use of 180 days or less in any calendar year:
- (a) Must apply to the Division for registration of the machine for a temporary use at least 3 working days before using it in this State;
 - (b) Shall comply with all other applicable provisions of NAC 459.010 to 459.950, inclusive;
 - (c) Shall furnish the Division with any other information it may reasonably request; and
 - (d) Shall not use the machine in this State more than 180 days per calendar year.
- 3. The application must be made on the Division's Form NRC-4, Application for Registration of Radiation Machine. A copy of the form may be obtained from the Division. A separate application and registration are required for each control console of a radiation machine.
- 4. Each application for registration of an X-ray machine must contain a list of the numbers of the X-ray tubes associated with a control panel.
- 5. Each person who controls a radiation machine must designate on the application form a person where the machine is located who is responsible for protection against radiation.
- 6. Each person who seeks to engage in the business of installing radiation machines, furnishing services or repairing radiation machines in this State must apply for registration with the Division and receive a certificate of registration before furnishing any services.
- 7. Each application for registration by a person to install, service or repair radiation machines must be accompanied by a nonrefundable annual fee of \$[70]140 or the application must not be acted upon by the Division.

Sec. 3 NAC 459.161 is hereby amended to read as follows:

NAC 459.161 Fees; failure to submit fee. (NRS 439.150, 459.201)

1. An application for the registration of a radiation machine submitted pursuant to NAC

- 459.154 must be accompanied by a nonrefundable fee for each X-ray tube or electron source which is installed in the radiation machine, as follows:
 - (a) Medical use, other than mammography, \$[250]500.
 - (b) Veterinary use, \$[75]150.
 - (c) Dental use, $\frac{70}{140}$.
 - (d) Industrial use, \$[100]200.
 - (e) Academic use, \$\frac{175}{150}.
 - (f) Accelerator, \$\frac{275}{550}.
- 2. Except as otherwise provided in subsection 3, if the Division issues a registration certificate pursuant to NAC 459.156, the registrant must, for each year the certificate is valid, submit to the Division a nonrefundable renewal fee in an amount equal to the appropriate fee set forth in subsection 1.
- 3. The renewal fee must be received by the Division not later than the date on which the registration expires. If the fee is not received by that date, the registrant must:
- (a) Stop operating the radiation machine which does not have a valid registration on or before the date the registration expires; or
 - (b) Submit to the Division within 5 days after the registration expires:
 - (1) An application for renewal of the registration;
 - (2) A fee in an amount that is equal to the appropriate fee set forth in subsection 1; and
 - (3) A fee for late payment of \$\[\frac{50}{50}\]56 per registration.
- 4. Any application for registration or renewal of registration which is not accompanied by the appropriate fees will not be acted upon by the Division until such fees are paid.
- 5. An application for a certificate of authorization for a radiation machine must be accompanied by a nonrefundable fee for each machine as required pursuant to NAC 457.295.

Sec. 4 NAC 459.310 is hereby amended to read as follows:

NAC 459.310 Fees for licenses. (NRS 439.150, 459.201) Except as otherwise provided in NAC 459.203, the Division will not issue a new specific license or a renewed specific license to a person until the appropriate nonrefundable fee has been paid to the Division, as prescribed in the following table:

Material and use Fee

1. Special nuclear material:	
(a) As sealed source	\$2,000
(b) In unsealed form	2,000
2. Source materials for other than milling operations	
3. By-product, artificially produced radioactive material and radium:	,
(a) Manufacturing or distribution, or both	\$ [2,000] 2,200
(b) Nuclear pharmacy	
(c) Industrial radiography	
(d) Category 1 (<i>self shielded</i>) irradiator	[1,500] 1,650
(e) Academic, broad scope	
(f) Academic, other research and development	
(g) Service or laboratory	[1,600] 1,760
(h) Fixed gauge	
(j) In vitro	
(k) Portable gauge or X-ray fluorescence analyzer	
(l) All other uses of [source material, special nuclear material,	1,000

by-product material and radium] radioactive material except those	
set forth in subsections 4 to 8, inclusive	••••
4. Well logging	\$ [3,000] 3,300
5. Medical use or veterinary use of radioactive material:	
(a) Medical use or veterinary use [only]	\$ [4,000] 4,400
(b) [With teletheraphy	 4,000
(c) With high dose remote afterloader	 4,000
(d) With brachytheraphy	 4,000
(e) Teletheraphy only	 4,000
(f) High dose remote afterloader only	 4,000
(g) Brachytheraphy only	 4,000
(h) General license for in vitro use	 [115] 125
6. Civil defense	\$ [250] 276
7. Registration of devices generally licensed pursuant to paragraph (a)	
of subsection 12 of NAC 459.218.	\$250
8. Any use of [source material, special nuclear material, by-product	
material or radium radioactive material by a person who holds a specific	See
license issued by the Nuclear Regulatory Commission or any agreement	appropriate fee
state (reciprocity)	category above
	<i>C</i> ,

Sec. 5 NAC 459.134 is hereby amended to read as follows:

NAC 459.134 Communications with Division. (NRS 459.201) All communications and reports concerning the provisions of NAC 459.010 to 459.950, inclusive, and copies of regulatory guides and applications filed under those provisions should be addressed to the Radiological Health Section, *Nevada State* Health Division, [505 East King Street] 4150 Technology Way, Suite 300, Carson City, Nevada 8970[1]6.

Sec. 6 NAC 459.737 is hereby amended to read as follows:

NAC 459.737 Adoption by reference of certain provisions of Code of Federal Regulations; revision of certain terms.

- 1. In addition to any applicable requirement of NAC 459.010 to 459.794, inclusive, a person [registered with] *licensed by* the Division to use a sealed source to engage in industrial radiography shall comply with all applicable requirements of, and may rely on all applicable exclusions or exemptions included in, the provisions of Part 34 of Title 10 of the Code of Federal Regulations, as adopted by reference in this section.
- 2. Part 34 of Title 10 of the Code of Federal Regulations, as those provisions existed on January 1, 2001, is hereby adopted by reference, subject to the following:
- (a) Except as otherwise provided in this section, any reference to "Commission's regulations," "federal regulations" or "NRC regulations" shall be deemed a reference to "NAC 459.010 to 459.950, inclusive";
- (b) Except in 10 C.F.R. § 34.20 and as otherwise provided in this section, any reference to the "Commission" or "NRC" shall be deemed a reference to the "Division";
- (c) Except as otherwise provided in this section, any reference to "NRC or an Agreement State," "Commission or an Agreement State" or "Commission or by an Agreement State" shall be deemed a reference to "Division, Nuclear Regulatory Commission or an agreement state";
- (d) Except as otherwise provided in this section, any reference to "NRC license" shall be deemed a reference to "license issued by the Division pursuant to NAC 459.010 to 459.950, inclusive";
 - (e) Any reference to "10 CFR part 19" or "10 CFR 19" shall be deemed a reference to "NAC

- 459.780 to 459.794, inclusive";
- (f) Any reference to "10 CFR part 20" or "10 CFR 20" shall be deemed a reference to "NAC 459.320 to 459.374, inclusive";
- (g) Any reference to "10 CFR 20.1601(a)(1)" or "\s 20.1601(a)(1)" shall be deemed a reference to "paragraph (a) of subsection 1 of NAC 459.341";
- (h) Any reference to "10 CFR 20.1902" or "\square 20.1902" shall be deemed a reference to "NAC 459.3555";
- (i) Any reference to "10 CFR 20.1903" or "§ 20.1903" shall be deemed a reference to "NAC 459.3565";
- (j) Any reference to "10 CFR 20.2203" or "§ 20.2203" shall be deemed a reference to "NAC 459.371";
- (k) The full text of a sentence that contains any reference to "10 CFR part 21" or "10 CFR 21" shall be deemed omitted;
- (l) The full text of a sentence that contains any reference to "10 CFR 30.7," "\\$ 30.7," "10 CFR 30.9," "\\$ 30.9," "\\$ 30.10" or "\\$ 30.10" shall be deemed omitted;
- (m) Any reference to "10 CFR 30.33" or "\script 30.33" shall be deemed a reference to "NAC 459.238";
- (n) Any reference to "10 CFR 30.50" or "§ 30.50" shall be deemed a reference to "NAC 459 373".
- (o) Any reference to "10 CFR part 34" or "10 CFR 34" shall be deemed a reference to "this section":
 - (p) Any reference to "10 CFR 34.111" shall be deemed a reference to "NAC 459.120";
- (q) Any reference to "10 CFR 71," "10 CFR part 71," "10 CFR 71.5," "\$ 71.5," or "49 CFR parts 171-173" shall be deemed a reference to "NAC 459.314";
- (r) Any reference to "10 CFR 150.20" or "§ 150.20" shall be deemed a reference to "NAC 459.210";
- (s) In 10 C.F.R. § 34.3, any reference to "offshore platform radiography" shall be deemed a reference to "platform radiography";
 - (t) In 10 C.F.R. § 34.27(d), any reference to:
 - (1) "Commission regulations" shall be deemed a reference to "NAC 459.307"; and
- (2) "Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001" or "Administrator of the appropriate Nuclear Regulatory Commission's Regional Office listed in appendix D of 10 CFR part 20 of this chapter 'Standards for Protection Against Radiation'" shall be deemed a reference to "Division pursuant to NAC 459.307":
- (u) In 10 C.F.R. § 34.43(a)(2), any reference to "Commission" shall be deemed a reference to "Division, Nuclear Regulatory Commission or an agreement state";
- (v) In 10 C.F.R. § 34.89, any reference to "Agreement State" shall be deemed a reference to "Nuclear Regulatory Commission or an agreement state";
- (w) In 10 C.F.R. § 34.101(a), any reference to "U.S. Nuclear Regulatory Commission, Division of Industrial and Medical Nuclear Safety, Washington, D.C. 20555-0001, with a copy to the Director, Office for Analysis and Evaluation of Operation Data, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001," shall be deemed a reference to "Division";
- (x) In 10 C.F.R. § 34.101(c), any reference to "appropriate NRC regional office listed in § 30.6(a)(2) of this chapter" shall be deemed a reference to "Division"; and
 - (y) In Appendix A to Part 34 of Title 10 of the Code of Federal Regulations:

- (1) The reference in item 12 of section I to "Commission and other independent certifying organizations and/or Agreement States" shall be deemed a reference to "Division, Nuclear Regulatory Commission, other independent certifying organizations and agreement states";
- (2) The reference in item 1 of section II to "Agreement State regulations" shall be deemed a reference to "regulations of the Nuclear Regulatory Commission or an agreement state"; and
- (3) The reference in item 2 of section II to "an Agreement State or a NRC licensee" shall be deemed a reference to "a person that holds a license issued pursuant to NAC 459.010 to 459.950, inclusive, by the Nuclear Regulatory Commission or an agreement state."
- 3. The following sections of Part 34 of Title 10 of the Code of Federal Regulations, as those provisions existed on January 1, 2001, are not adopted by reference:
 - (a) Section 34.1:
 - (b) Section 34.5;
 - (c) Section 34.8;
 - (d) Section 34.11;
 - (e) Section 34.45(a)(9);
 - (f) Section 34.121; and
 - (g) Section 34.123.
- 4. A copy of a publication that contains Part 34 of Title 10 of the Code of Federal Regulations may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, at the price of \$55.
- Sec. 7 "Nationally tracked source" defined. Nationally tracked source is a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Appendix E of 10 CFR Part 20. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.
- Sec. 8 Reports of transactions involving nationally tracked sources.

 Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report as specified in paragraphs (a) through (e) of this section for each type of transaction.

 (a) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:
 - (1) The name, address, and license number of the reporting licensee;
 - (2) The name of the individual preparing the report;
 - (3) The manufacturer, model, and serial number of the source;
 - (4) The radioactive material in the source;
 - (5) The initial source strength in becauerels (curies) at the time of manufacture; and
 - (6) The manufacture date of the source.
- (b) Each licensee that transfers a nationally tracked source to another person shall complete

and submit a National Source Tracking Transaction Report. The report must include the following information:

- (1) The name, address, and license number of the reporting licensee;
- (2) The name of the individual preparing the report;
- (3) The name and license number of the recipient facility and the shipping address;
- (4) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
 - (5) The radioactive material in the source;
 - (6) The initial or current source strength in becquerels (curies);
 - (7) The date for which the source strength is reported;
 - (8) The shipping date;
 - (9) The estimated arrival date; and
- (10) For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification of the container with the nationally tracked source.
- (c) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:
 - (1) The name, address, and license number of the reporting licensee;
 - (2) The name of the individual preparing the report;
 - (3) The name, address, and license number of the person that provided the source;
- (4) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
 - (5) The radioactive material in the source;
 - (6) The initial or current source strength in becquerels (curies);
 - (7) The date for which the source strength is reported;
 - (8) The date of receipt; and
- (9) For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source. (d) Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:
 - (1) The name, address, and license number of the reporting licensee;
 - (2) The name of the individual preparing the report;
- (3) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
 - (4) The radioactive material in the source;
 - (5) The initial or current source strength in becquerels (curies);
 - (6) The date for which the source strength is reported;
 - (7) The disassemble date of the source.
- (e) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:
 - (1) The name, address, and license number of the reporting licensee;
 - (2) The name of the individual preparing the report;
 - (3) The waste manifest number;

- (4) The container identification with the nationally tracked source.
- (5) The date of disposal; and
- (6) The method of disposal.
- (f) The reports discussed in paragraphs (a) through (e) of this section must be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:
 - (1) The on-line National Source Tracking System;
 - (2) Electronically using a compute rreadable format;
 - (3) By facsimile;
- (4) By mail to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or
 - (5) By telephone with followup by facsimile or mail.
- (g) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within 5 business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by paragraphs (a) through (e) of this section. By January 31 of each year, each licensee must submit to the National Source Tracking System confirmation that the data in the National Source Tracking System is correct.
- (h) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by November 15, 2007. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by November 30, 2007. The information may be submitted by using any of the methods identified by paragraph (f)(1) through (f)(4) of this section. The initial inventory report must include the following information:
 - (1) The name, address, and license number of the reporting licensee;
 - (2) The name of the individual preparing the report;
- (3) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;
 - (4) The radioactive material in the sealed source;
 - (5) The initial or current source strength in becquerels (curies); and
 - (6) The date for which the source strength is reported.
- Sec. 9 "Appendix E" means Appendix E to 10 C.F.R. §§ 20.1001 to 20.2402, inclusive as those provision existed on November 8, 2006.
- Sec. 10 Each licensee who manufactures a nationally tracked source after (effective date of regulations) shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

Sec. 11 NAC 459.314 is hereby amended to read as follows:

NAC 459.314 Transportation: Preparation of radioactive material. (NRS 459.201)

- [1. Except as otherwise provided in subsection 3, no licensee may deliver any radioactive material to a carrier for transport, unless:
- (a) The licensee complies with the applicable requirements of the regulations appropriate to the mode of transport of the United States Department of Transportation;
- (b) The licensee has established procedures for opening and closing a package in which radioactive material is transported to provide safety and to ensure that before the delivery to a carrier for transport, each package is properly closed for transport; and
- (c) Before delivery of a package to a carrier for transport, the licensee must assure that any special instructions needed to open safely the package are sent to or have been made available to the consignee.
- 2. For the purpose of subsection 1, a licensee who transports his own licensed material as a private carrier is considered to have delivered such material to a carrier for transport.
- 3. Subsection 1 does not apply to the transportation of licensed material or to the delivery of licensed material to a carrier for transport where the transportation is subject to the regulations of the United States Postal Service.] All persons who transport radioactive material or deliver radioactive material to a carrier for transport must comply with the applicable provisions contained in 10 CFR Part 71 and 49 CFR Parts 170 through 189. The regulations in 10 CFR Part 71 apply to any licensee authorized by specific or general license to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage, or transports that material on public highways. No provision of 10 CFR Part 71 authorizes possession of licensed material. The provisions of 10 C.F.R. Part 71, as they existed on January 26, 2004, are hereby adopted by reference, subject to the following:
- 1. Byproduct material, described in 10 CFR 71.4, is deemed to include naturally occurring and accelerator produced radioactive material (NARM);
 - 2. 10 CFR 71.6 is not adopted by reference;
 - 3. 71.65 is not adopted by reference;
 - 4. 71.100 is not adopted by reference
- 5. Any reference to a license, licensee, applicant, or applicant for a license, an NRC license, licensee or applicant, Commission license, licensee or applicant, license issued by the Commission or licensee of the Commission shall be deemed to be a reference to a Nevada State Health Division license, licensee or applicant or license issued by the Division;
- 6. Any reference to the Commission, the Nuclear Regulatory Commission, or the NRC, except as provided below, shall be deemed a reference to the Nevada State Health Division:

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a. 10 CFR 71.4, definition of certificate holder;
b. 71.0(a)(2), 71.0(d)(1) and 71.0(g);
c. 71.1(a);
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d. 71.4(3);e. 71.8(b)(2);

f. 71.10;

g. 71.12;h. The reference, in 71.17(a), to the NRC;

i. The reference, 71.17(b), to the Commission;

j. 71.17(c)(3);

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k. 71.17(e);
   l. 71.19(a), 71.19(c), 71.19(d); 71.19(e);
   m. The reference, in 71.23(b) to the Commission;
   n. The reference, in 71.37, to the applicant, refers to an applicant to the NRC;
   o. 71.38(b);
   p. 71.39;
   q. 71.41(a), 71.41(b) and 71.41(c);
   r. 71.55(c);
   s. The reference, in 71.85(c) to the Commission;
   t. The reference, in 71.93(c) to the NRC;
   u. The reference, in 71.95(a)(1) to the NRC;
   v. 71.99;
   w. The reference, in 71.101(g);
  7. The reference, in 10 CFR 71.9(e)(1) and 2, to NRC Form 3, shall be deemed a reference
to Division Form NRC-1;
  8. The reference, in 10 CFR 71.9(e)(1), to §19.11(c)shall be deemed a reference to NAC
459.782.3;
  9. 10 CFR 71.9(f) is not adopted by reference;
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Sec. 12 NAC 459.240 and 459.242 are hereby repealed.

10. 10 CFR 71.100 is not adopted by reference;

TEXT OF REPEALED SECTIONS

NAC 459.240 Specific licenses: Institutional use of radioactive material on human beings. (NRS 459.201) In addition to the requirements set forth in NAC 459.238, a specific license for institutional use of radioactive material on human beings will be issued if all the following requirements are satisfied:

- 1. The applicant has appointed a committee on radiation safety to oversee the use of radioactive material throughout the institution and review the institution's safety program. The committee must consist of at least the following members:
 - (a) An authorized user for each type of use permitted by the license;
 - (b) A representative of the nursing staff;
- (c) A representative of the institution's management who is neither an authorized user nor a radiation safety officer; and
 - (d) The radiation safety officer.
 - 2. The applicant possesses adequate facilities for the clinical care of patients.
- 3. A physician designated as an authorized user has the training and experience required in NAC 459.010 to 459.950, inclusive, that is appropriate to the type of usage of radioactive material for which he is authorized and, where applicable, the clinical management of patients who are radioactive.
- 4. The operating procedures for radiation safety proposed by the applicant are adequate for the handling and disposal of the quantities and types of radioactive materials specified in the application.

NAC 459.242 Specific licenses: Physicians using radioactive material for humans. (NRS 459.201) In addition to the requirements in NAC 459.238, a specific license for the human use of radioactive material will be issued to an individual physician if:

- 1. The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the radioactive patients of the applicant whenever it is advisable;
- 2. The applicant has the training and experience required in NAC 459.010 to 459.950, inclusive, that is appropriate to the type of usage of radioactive material for which he is authorized and, where applicable, the clinical management of radioactive patients; and
- 3. The operating procedures for radiation safety proposed by the applicant are adequate for the handling and disposal of the quantities and types of radioactive materials specified in the application.