

LCB File No. R149-03

**PROPOSED REGULATION OF THE  
STATE BOARD OF HEALTH**

**459.154 Applications for registration. (NRS 459.030)**

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 \$~~45~~ 70 or the application must not be acted upon by the Division.

**459.161 Fees.**

1. An application for the registration of a radiation machine submitted pursuant to NAC 459.156 must be accompanied by a nonrefundable fee for each ~~[machine]~~ *X-ray tube or electron source* as follows:
  - (a) ~~[Location with one X-ray machine for medical use:~~
    - ~~(1) Single-tube X-ray machine, \$50.~~
    - ~~(2) Multiple-tube X-ray machine, \$80.~~
  - ~~(b) Location with more than one X-ray machine for medical use:~~
    - ~~(1) Single-tube X-ray machine, \$90.~~
    - ~~(2) Multiple-tube X-ray machine, \$140.~~
  - ~~(c) Podiatrist or veterinarian, \$35.]~~  
*Medical (other than mammography), \$250*
    - (b) Veterinary, \$75*
    - ~~[(d)]~~ *(c) Dental, [facility:] \$70*

~~[(1) Single tube X ray machine, \$30.~~

~~—(2) Multiple tube X ray machine, \$50.]~~

~~(d) [Facility for nonhuman use (industrial, academic), \$35.]~~ **Industrial, \$100**

~~(e) Academic, \$75~~

(f) Accelerator, ~~[\$105.]~~ **\$275**

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 \$50. During the 12-month period following the renewal of registration, the registrant will be required to pay only one fee for late payment for the facility where the radiation machine is located, regardless of the number of radiation machines **and X-ray tubes or electron sources** located at that facility whose registration is not renewed within the prescribed period.

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.

**NAC 459.310 Fees for licenses. 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

1. Special nuclear material:

(a) As sealed source ..... ~~[\$100]~~ **\$2,000**

(b) In unsealed form..... ~~[300]~~ **2,000**

2. Source materials for other than milling operations..... ~~[\$100]~~ **2,000**

3. By-product material and radium:

(a) Manufacturing ~~[items containing radioactive material for distribution .....~~ **\$250**

~~—(b)] and/or Distribution [of items containing radioactive material to general licensees ....300]~~ **2,000**

~~[(c)]~~ (b) **[Radio] Nuclear** pharmacy ..... ~~[600]~~ **6,000**

~~[(d)]~~ (c) **Industrial** Radiography ~~[, in plant, by a person who holds a license issued by this state—475]~~ **5,000**

~~[(e)]~~ Radiography, field, by a person who holds a license issued by this state..... ~~475~~

<del>—(f) Radiography by a person who holds a license issued by the Nuclear Regulatory Commission or an agreement state</del> .....	<del>475</del>
<del>—(g) (d) Irradiator<del>[, self-shielded]</del> - Category 1</del> .....	<del>[150] 1,500</del>
<del>  <del>[(h) Irradiator, source exposed</del>.....</del>	<del>300</del>
<del>—(i) (e) Academic<del>[, limited scope, per user]</del> .....</del>	<del>50</del>
<del>—(j) - Broad scope<del>[:]</del> .....</del>	<del>8,000</del>
<del>[(1) (f) Academic- other research and development</del> .....	<del>[1,000] 1,200</del>
<del>[(2) Industrial</del> .....	<del>250</del>
<del>—(k) (g) Service or Laboratory:</del>	
<del>[(1) By a person who holds a license issued by this state</del> .....	<del>100] 1,600</del>
<del>[(2) By a person who holds a license issued by the Nuclear Regulatory Commission or an agreement state</del> .....	<del>100</del>
<del>—(l) Dew point checker</del> .....	<del>75</del>
<del>—(m) (h) Fixed gauge</del> .....	<del>[100] 1,000</del>
<del>[(n) (i) <del>[Foil] Gas Chromatograph</del> .....</del>	<del>[80] 450</del>
<del>[(o) (j) In vitro</del> .....	<del>95</del>
<del>[(p) Laboratory</del> .....	<del>115</del>
<del>—(q) Laboratory, major radiochemical analysis</del> .....	<del>600</del>
<del>—(r) Eye applicator (nonhuman use)</del> .....	<del>85</del>
<del>—(s) Ordnance testing</del> .....	<del>280</del>
<del>—(t) (k) Portable gauge<del>[:]</del> or X-ray fluorescence analyzer [use by a person who holds a license issued by this state</del> .....	<del>90] 1,200</del>
<del>[(u) Portable gauge, use by a person who holds a license issued by the Nuclear Regulatory Commission or an agreement state</del> .....	<del>90</del>
<del>—(v) Radioimmunoassay (research and development, distribution)</del> .....	<del>335</del>
<del>—(w) X ray fluorescence analyzer</del> .....	<del>80</del>
<del>—(x) (l) All other uses of by-product material, special nuclear material, source material, and radium except those in subsections 4 to 8, inclusive</del> .....	<del>[100] 1,000</del>
<del>4. [Waste disposal application and new license to operate a disposal area</del> .....	<del>100,000]</del>
<del>5. Well logging<del>[:]</del></del>	
<del>—(a) By a person who holds a license issued by this state</del> .....	<del>\$300] 3,000</del>
<del>[(b) By a person who holds a license issued by the Nuclear Regulatory Commission or an agreement state</del> .....	<del>300]</del>
<del>6. Human or veterinary medical use of radioactive material:</del>	
<del>(a) [(a) Human medical or veterinary medical only</del> .....	<del>4,000</del>
<del>(b) With [T] teletherapy</del> .....	<del>[250] 4,000</del>
<del>[(b) Nuclear medicine</del> .....	<del>385]</del>
<del>(c) With high dose remote afterloader</del> .....	<del>4,000</del>
<del>[(e) (d) With [B] brachytherapy</del> .....	<del>[130] 3,000</del>
<del>[(d) Eye applicator</del> .....	<del>115]</del>
<del>(e) Teletherapy only</del> .....	<del>4,000</del>
<del>(f) High dose remote afterloader only</del> .....	<del>4,000</del>
<del>(g) Brachytherapy only</del> .....	<del>3,000</del>
<del>[(e) Bone mineral analyzer</del> .....	<del>115]</del>
<del>—[(f) (h) General license for in vitro use</del> .....	<del>115</del>

~~[(g) For any combination of human uses, the highest fee of the applicable categories in paragraphs (b) to (f), inclusive.]~~

- 7. Civil defense ..... ~~[\$90]~~ 250
- 8. ~~[Evaluation of safety of device, product, or sealed source .....\$500]~~ *Any use of by-product material, special nuclear material, source material, and/or radium by a person who holds a license issued by the Nuclear Regulatory Commission or any state .....(see appropriate fee category above*

**LCB File No. R149-03**

**PROPOSED REGULATION OF THE  
STATE BOARD OF HEALTH**

**Small Business Impact Statement**

Nevada Administrative Code 459 – X-ray Fee Increases

Machine-produced radiation Certificate Category	Responses
Hospitals	2
Medical Offices	25
Podiatrists	9
Chiropractors	26
Dentists	74
Veterinarians	10
Academic	0
Industrial	4
Service companies	4
Total responses: 153	153
Total responses mailed: approx 1,850	

Interested parties can obtain a copy of the information packet, including the Small Business Impact Questionnaire sent to all recipients, from Stanley R. Marshall, Supervisor, Radiological Health Section, Bureau of Health Protection Services, Nevada State Health Division, 1179 Fairview Drive, Suite 102, Carson City, NV 89701.

The costs to current and proposed fees to obtain/renew a certificate for registration of machine-produced radiation sources (X-rays, accelerators, electron sources) or to provide services for installation, repair and/or relocation of the machines indicated in the table below:

<u>X-ray Registration Type</u>	<u>Current Start-up Fee</u>	<u>Proposed Start-up Fee</u>	<u>Current Renewal Fee</u>	<u>Proposed Renewal Fee</u>
Hospital	a. \$50/\$80 (1/2 or more tubes per machine and 1 machine at the facility) or b. \$90/\$140 (1/2 or more tubes per machine with 2 or more machines at the facility)	\$250 per X-ray tube	same	\$250 per X-ray tube
Medical Facility	a. \$50/\$80 (1/2 or more tubes per	\$250 per X-ray tube	same	\$250 per X-ray tube

	machine and 1 machine at the facility) or b. \$90/\$140 (1/2 or more tubes per machine with 2 or more machines at the facility)			
Podiatrist	\$50 per machine	\$250 per X-ray tube	same	\$250 per X-ray tube
Chiropractor	\$50 per machine	\$250 per X-ray tube	same	\$250 per X-ray tube
Veterinarian	\$75 per machine	\$250 per X-ray tube	same	\$250 per X-ray tube
Dentist	\$30 single-tube machine or \$50 multiple-tube machine	\$70 per X-ray tube	same	\$70 per X-ray tube
Industrial	\$35 per machine	\$100 per x-ray tube	same	\$100 per x-ray tube
Academic	\$35 per machine	\$75 per X-ray tube	same	\$75 per X-ray tube
Accelerator	\$105 per machine	\$275 per machine	same	\$275 per machine
Service company	\$45 per company location that provides service in Nevada	\$70 per company location that provides service in Nevada	same	\$70 per company location that provide service in Nevada

The proposed fee increases are expected to have both direct and indirect beneficial economic effect on registrants of machine-produced radiation sources and services companies, in that collection of the proposed fees will allow the Radiological Health Section to continue to perform state registration, inspection and enforcement activities in a timely manner pursuant to Nevada Revised Statute 459 to protect public health and safety.

**Summary of comments from registrants of machine-produced radiation sources:**

**Question #2: Will a specific regulation have an adverse economic effect upon your business?**

Commenter Type	YES	NO
Hospitals	2	0
Medical Offices	12	8
Podiatrists	8	1

Chiropractors	20	3
Dentists	39	30
Veterinarians	3	4
Academic	0	0
Industrial	2	2
Service companies	3	1
Total responses:	138	89
Total responses mailed:	approx 1,840	

Comments regarding Question #2:

**Sample of “YES” Responses from commenters:**

Registrants:

- Increased fees will result in increased charges to patients.
- Raising fees directly affects our profit margin.
- Cannot pass on to patients due to contracted reimbursement from insurance.
- Poor rural populations cannot afford increased fees.
- Small practice; any cost increases are a hardship.
- Insurance reimbursements are marginal.
- Just another tax burden.
- More increased fees to already overburdened system.
- No way to pass increases on to managed care contracts.
- Small business difficult to handle more costs in financially difficult time.
- Thank you for calling back to explain the proposed fee changes. I think all business people understand that fees need to be increased. I strongly recommend increases more in line with real life (i.e., 8 – 10% over 2–year period) with increases gradually over time. Thank you for the quick response to my questions.
- Everyone should have a small business sometime; it should be a prerequisite for government employment.
- Having trouble already staying open.

Service Companies:

- Any increase will burden use due to lack of income already.
- Bone scanner – less complex than dental but higher fee.

**Sample of “NO” Responses from commenters:**

Registrants:

- Fee increase is moderate and acceptable.
- Doesn’t appear unreasonable to request increase.
- Fee increase may suggest this is a non-economical method of research.

Service Companies:

- No responses.

**Question #3: Will the regulation have any beneficial effect upon your business?**

Commenter Type	YES	NO
Hospitals	2	0
Medical Offices	0	20

Podiatrists		0	9
Chiropractors		2	21
Dentists		3	64
Veterinarians		1	6
Academic		0	0
Industrial		0	4
Service companies		0	4
Total responses:	136	8	128
Total responses mailed:	approx 1,840		

Comments regarding Question #3:

**Sample of “YES” Responses from commenters:**

Registrants:

- I can provide the best possible dentistry to my patients.
- Helps me meet OSHA standards.

Service Companies:

- No responses.

**Sample of “NO” Responses from commenters:**

Registrants:

- Bigger is not better.
- Please reconsider structure for small business such as a waiver for rural clinics.
- No benefit; just financial burden.

Service Companies:

- No responses.

**Question #4: Do you anticipate an indirect adverse effects upon your business?**

Commenter Type	YES	NO
Hospitals	2	0
Medical Offices	8	11
Podiatrists	5	3
Chiropractors	15	6
Dentists	35	32
Veterinarians	1	6
Academic	0	0
Industrial	1	3
Service companies	1	3
Total responses:	132	64
Total responses mailed:	approx 1,840	

Comments regarding Question #4:

**Sample of “YES” Responses from commenters:**

Registrants:

- Digital radiography results in 90% less exposure; should be rewarded with less fees or tax break.



- Less income, more overhead.
- Reduces profit sharing with employees.
- Direct, indirect – it all hurts my business!
- Less affordability for the poor!
- My bottom line.
- \$250 might not seem a lot but all recent increases add to a lot for small business.
- More overhead – pass along to patients.
- About the same renew my license to practice in Nevada.
- May force us to close and deny rural Nevadans health care.

Service Companies:

- Higher fees make buyers reluctant to purchase.

**Sample of “NO” Responses from commenters:**

Registrants:

- Increased costs of doing business will likely result in less income, less wages for employees and possibly layoffs.
- Higher fees for patients, driving up costs due to unnecessary regulations, however, slight overall negative effect.
- Only effect will be line item increase to cover increased costs.

Service Companies:

- No responses.

**Question #5: Do you anticipate an indirect beneficial effect upon your business?**

Commenter Type	YES	NO
Hospitals	2	0
Medical Offices	0	19
Podiatrists	0	3
Chiropractors	1	21
Dentists	1	65
Veterinarians	0	7
Academic	0	0
Industrial	1	3
Service companies	0	4
Total responses: 127	5	122
Total responses mailed: approx 1,840		

Comments regarding Question #5:

**Sample of “ YES” Responses from commenters:**

Registrants:

- Time will tell.
- Ridiculous increase in these fees; nothing for our business except decline in profits and monies available for employees.
- If we stop using, we won’t pay any fees!
- Increase is excessive.

Service Companies:

- No responses.

**Sample of “NO” Responses from commenters:**

Registrants:

- Yea, right!

Service Companies:

- No responses.

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**Small Business Impact Statement**

Nevada Administrative Code 459 – Radioactive Material Fee Increases

Rad. Mat. License Category	Responses
Specific Manufacturer/Distributor	0
Nuclear Pharmacy	0
Category I Irradiator	0
Academic Large Broad Scope	0
Academic small –other research & development	0
Gas Chromatograph	0
Portable gauge & Port. XRF analyzers	6
Fixed Gauge	0
Service company/minor lab	2
Wireline/Well logging	0
Industrial radiography	0
Medical/Veterinary including teletherapy and/or High Dose Rate Remote Afterloader	2
Medical/Veterinary and/or brachytherapy; fixed location or mobile	0
Civil Defense	0
In Vitro Laboratory	0
Other uses not specified	0
Total responses:	10
Total responses mailed: approx 300	

Interested parties can obtain a copy of the information packet, including the Small Business Impact Questionnaire sent to recipients, from Stanley R. Marshall, Supervisor, Radiological Health Section, Bureau of Health Protection Services, Nevada State Health Division, 1179 Fairview Drive, Suite 102, Carson City, NV 89701.

The costs to current and proposed fees for licensure to use radioactive materials in Nevada indicated in the table below:

Rad. Material License Category	Current annual fee	Proposed annual fee
Specific Manufacturer/Distributor	\$300	\$2,000
Nuclear Pharmacy	600	6,000
Category I Irradiator	300	1,500
Academic Large Broad Scope	1,000	8,000
Academic small –other research & development	50 per user	1,200
Gas Chromatograph	80	450
Portable gauge & Port. XRF analyzers	90	1,200
Fixed Gauge	100	1,000
Service company/minor lab	100	1,600
Wireline/Well logging	300	3,000
Industrial radiography	475	5,000
Medical/Veterinary including teletherapy and/or High Dose Rate Remote Afterloader	385	4,000
Medical/Veterinary and/or brachytherapy; fixed location or mobile	385	3,000
Civil Defense	90	250
In Vitro Laboratory	95	100
Other uses not specified	100	Hourly rate

The proposed fee increases are expected to have both direct and indirect beneficial economic effect on registrants of machine-produced radiation sources and services companies, in that collection of the proposed fees will allow the Radiological Health Section to continue to perform state registration, inspection and enforcement activities in a timely manner pursuant to Nevada Revised Statute 459 to protect public health and safety.

**Summary of comments from registrants of machine-produced radiation sources:**

**Question #2: Will a specific regulation have an adverse economic effect upon your business?**

Rad. Material License Category	YES	NO
Specific Manufacturer/Distributor	0	0
Nuclear Pharmacy	0	0
Category I Irradiator	0	0
Academic Large Broad Scope	0	0
Academic small –other research & development	0	0
Gas Chromatograph	0	0
Portable gauge & Port. XRF analyzers	4	2

Fixed Gauge	0	0
Service company/minor lab	2	0
Wireline/Well logging	0	0
Industrial radiography	0	0
Medical/Veterinary including teletherapy and/or High Dose Rate Remote Afterloader	2	0
Medical/Veterinary and/or brachytherapy; fixed location or mobile	0	0
Civil Defense	0	0
In Vitro Laboratory	0	0
Other uses not specified	0	0
Total responses: 10	8	2
Total responses mailed: approx 300		

Comments regarding Question #2:

**Sample of “YES” Responses from commenters:**

- Loss of gauge sales, service and training due to fee increase.
- Increase too high for one gauge used infrequently; major burden . . . to run a business.
- 10-fold increase does not need an impact statement.
- \$90 to \$1,200/year! This is approximately 1/3 the cost of a new (portable) gauge.
- . . . . an unacceptable increase . . . is it possible to spread the increase over several years?

**Sample of “NO” Responses from commenters:**

Licensees:

- No responses.

**Question #3: Will the regulation have any beneficial effect upon your business?**

Rad. Material License Category	YES	NO
Portable gauge & Port. XRF analyzers	1	5
Service company/minor lab	0	2
Medical/Veterinary including teletherapy and/or High Dose Rate Remote Afterloader	0	2
Total responses: 10	1	9
Total responses mailed: approx 300		

Comments regarding Question #3:

**Sample of “YES” Responses from commenters:**

Licensees:

- . . . if you hire sufficient staff to become my emergency contact . . . also help me comply with Federal regulations.

**Sample of “NO” Responses from commenters:**

Licensees:

- Higher costs seldom benefit my business.
- None what so ever.

**Question #4: Do you anticipate an indirect adverse effects upon your business?**

Rad. Material License Category	YES	NO
Portable gauge & Port. XRF analyzers	4	2
Service company/minor lab	2	0
Medical/Veterinary including teletherapy and/or High Dose Rate Remote Afterloader	0	2
Total responses: 10	6	4
Total responses mailed: approx 300		

Comments regarding Question #4:

**Sample of “YES” Responses from commenters:**

Licensees:

- Why can't increase be implemented over several years?
- Will have to increase my fees thereby losing clients.
- This increase will more than double the cost to our clients . . . forced to sell; my public clients will have to pay more for someone else . . .

**Sample of “NO” Responses from commenters:**

Licensees:

- No responses.

**Question #5: Do you anticipate an indirect beneficial effects upon your business?**

Rad. Material License Category	YES	NO
Portable gauge & Port. XRF analyzers	1	5
Service company/minor lab	1	1
Medical/Veterinary including teletherapy and/or High Dose Rate Remote Afterloader	0	2
Total responses: 10	2	8
Total responses mailed: approx 300		

Comments regarding Question #5:

**Sample of “YES” Responses from commenters:**

Licensees:

- Increased revenue from disposal fees paid when gauge licensees terminate their licenses because of fee increases.
- This forces my competition out of business if it doesn't force me out first.
- . . . . will no longer have administrative tasks associated with portable gauge ownership.

**Sample of “NO” Responses from commenters:**

Licensees:

- No responses