

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R034-04

Effective April 7, 2004

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 439.150, 459.030 and 459.201.

A REGULATION relating to radioactive material; increasing fees for certain new or renewed specific licenses; and providing other matters properly relating thereto.

NOTE: Section 1 of this regulation was formerly section 7 of LCB File No. R149-03.

Section 1. NAC 459.310 is hereby amended to read as follows:

459.310 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	[\$100] <i>\$2,000</i>
(b) In unsealed form	[\$300] <i>2,000</i>
2. Source materials for other than milling operations	[\$100] <i>\$2,000</i>
3. By-product material and radium:	

{(a) Manufacturing items containing radioactive material for distribution.....	\$250
—(b) Distribution of items containing radioactive material to general licensees	300
—(c) Radiopharmacy	600
—(d) Radiography, in plant, by a person who holds a license issued by this state	475
—(e) Radiography, field, by a person who holds a license issued by this state	475
—(f) Radiography by a person who holds a license issued by the Nuclear Regulatory Commission or an agreement state	475
—(g) Irradiator, self-shielded	150
—(h) Irradiator, source exposed	300
—(i) Academic, limited scope, per user	50
—(j) Broad scope:	
— (1) Academic	1,000
— (2) Industrial	250
—(k) Service:	
— (1) By a person who holds a license issued by this state.....	100
— (2) By a person who holds a license issued by the Nuclear Regulatory Commission or an agreement state	100
—(l) Dew point checker.....	75
—(m) Fixed gauge	100
—(n) Foil.....	80

(o) In vitro	95
(p) Laboratory	115
(q) Laboratory, major radiochemical analysis	600
(r) Eye applicator (nonhuman use).....	85
(s) Ordnance testing	280
(t) Portable gauge, use by a person who holds a license issued by this state.....	90
(u) Portable gauge, use by a person who holds a license issued by the Nuclear Regulatory Commission or an agreement state	90
(v) Radioimmunoassay (research and development, distribution).....	335
(w) X-ray fluorescence analyzer	80
(x) All other uses of by product material and radium except those in subsections 4 to 8, inclusive.....	100
4. Waste disposal application and new license to operate a disposal area	
5. Well logging:	
(a) By a person who holds a license issued by this state.....	\$300
(b) By a person who holds a license issued by the Nuclear Regulatory Commission or an agreement state	300
6. Human use of radioactive material:	
(a) Teletherapy	\$250
(b) Nuclear medicine.....	385
(c) Brachytherapy.....	130
(d) Eye applicator	115
(e) Bone mineral analyzer.....	115

(f) General license for in vitro use	115
(g) For any combination of human uses, the highest fee of the applicable categories in paragraphs (b) to (f), inclusive.	
7. Civil defense	\$90
8. Evaluation of safety of device, product, or sealed source	\$500]
(a) <i>Manufacturing or distribution, or both</i>	\$2,000
(b) <i>Nuclear pharmacy</i>	6,000
(c) <i>Industrial radiography</i>	5,000
(d) <i>Category 1 irradiator</i>	1,500
(e) <i>Academic, broad scope</i>	8,000
(f) <i>Academic, other research and development</i>	1,200
(g) <i>Service or laboratory</i>	1,600
(h) <i>Fixed gauge</i>	1,000
(i) <i>Gas chromatograph</i>	450
(j) <i>In vitro</i>	95
(k) <i>Portable gauge or X-ray fluorescence analyzer</i>	1,200
(l) <i>All other uses of source material, special nuclear material, by-product material and radium except those set forth in subsections 4 to 7, inclusive</i>	1,000
4. <i>Well logging</i>	\$3,000
5. <i>Medical use or veterinary use of radioactive material:</i>	
(a) <i>Medical use or veterinary use only</i>	\$4,000
(b) <i>With teletherapy</i>	4,000

(c) <i>With high dose remote afterloader</i>	4,000
(d) <i>With brachytherapy</i>	3,000
(e) <i>Teletherapy only</i>	4,000
(f) <i>High dose remote afterloader only</i>	4,000
(g) <i>Brachytherapy only</i>	3,000
(h) <i>General license for in vitro use</i>	115
6. <i>Civil defense</i>	\$250
7. <i>Any use of source material, special nuclear material, by-product</i>	<i>See</i>
<i>material or radium by a person who holds a license issued by the Nuclear</i>	<i>appropriate fee</i>
<i>Regulatory Commission or any agreement state</i>	<i>category above</i>

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R034-04**

The State Board of Health adopted regulations assigned LCB File No. R034-04 which pertain to chapter 459 of the Nevada Administrative Code on February 27, 2004.

Notice date: On or before 1/27/2004
Hearing date: 2/27/2004

Date of adoption by agency: 2/27/2004
Filing date: 4/7/2004

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested parties may obtain a copy of the summary.

A memo was sent to all machine-produced radiation source registrants, radiation machine service companies and selected associations affiliated with the registrants. In the mailing, the recipients were provided a copy of the proposed regulation revisions, a small business impact questionnaire, and notice of the workshops.

Public workshops were held as follows:

September 15, 2003 1:30 pm	Nevada Department of Transportation 3rd Floor Conference Room 1263 Stewart Street Carson City, NV
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September 15, 2003 1:30 pm	Grant Sawyer State Office Building Room 4401 555 E. Washington Avenue Las Vegas, NV
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Copies of the proposed revisions were also available for public review at county libraries and at the six field offices of the Bureau of Health Protection Services prior to workshops on September 15, 2003 and the adoption hearing on February 27, 2004.

Legal advertisements for the workshops were published as follows:

Elko Free Daily Press	September 2, 2003
Las Vegas Review Journal	August 29, 2003
Nevada Appeal	August 29, 2003
Reno Gazette Journal	August 29, 2003

2. The number of persons who:

- | | | |
|--|-------------|---|
| (a) Attended the workshop: | Carson City | 3 |
| | Las Vegas | 5 |
| (b) Testified at the workshop: | Carson City | 3 |
| | Las Vegas | 3 |
| (c) Submitted to the agency written statements: | | |
| 7 written statements were submitted to the agency. | | |

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

A Small Business Impact questionnaire was mailed to all affected parties on August 29, 2003. Affected parties were also informed by mail that they could attend the public workshops on September 15, 2003.

A notice for public hearing for adoption on February 27, 2004, was also mailed to approximately 350 affected parties on January 22, 2004. A notice of public hearing was also sent to eight (8) Nevada newspapers on January 21 and 22, 2004, for publishing to advertise the adoption hearing. During the adoption hearing, one commenter provided remarks to oppose the fee for the license issued to his employer.

The responses from affected parties generally indicated that the proposed revisions to increase fees only caused adverse financial impact on the businesses by increasing operational costs; however, one response did not oppose the revisions. A copy of the response summary may be obtained by submitting a written request to Radiological Health Section, Bureau of Health Protection Services, Nevada State Health Division, 1179 Fairview Drive, Suite 102, Carson City, NV 89701.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The proposed regulation was adopted without changing any part of the proposed text due to the lack of substantive comments and because NAC 439.150 enables the Nevada State Board of Health to adopt fees sufficient to generate the review for budgets approved by the Nevada Legislature.

5. The estimated economic effect of the regulation on the business, which it is to regulate, and on the public. These must be stated separately, and in each case must include:

(a) Both adverse and beneficial effects (Business):

Adverse effects on business are anticipated in the form of higher costs for operating businesses associated with licenses to use radioactive materials in medicine and other non-medical industrial activities as a result of these revisions.

The beneficial effects anticipated as a result of this amendment are to ensure that users of radioactive materials in Nevada are supported by continued state radiation control programs to protect radiation source users, user employees and the general public with fees that are lower than imposed by the U.S. Nuclear Regulatory Commission if the program was returned to the Federal Government.

(b) Both adverse and beneficial effects (Public):

Minimal adverse effects on the public may be anticipated in the form of cost increases from service licensees as a result of these revisions.

The beneficial effects anticipated as a result of these revisions are continuation of radiation control programs concerning control of radioactive material sources to protect public health and safety in Nevada.

6. The estimated cost to the agency for the enforcement of the proposed regulation.

No additional cost to the agency for enforcement of the regulation is anticipated.

7. A description of any regulations of other state or government agencies, which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, name the regulating federal agency.

The proposed regulations do not overlap or duplicate any other Nevada state regulations.

8. The regulation includes provisions, which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

N/A.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Increased fee revenue is expected to be approximately \$542,420 per year.